

**ILLINOIS STATE POLICE MERIT BOARD
OF THE STATE OF ILLINOIS**

IN RE THE MATTER OF:

**LIEUTENANT KEVIN WINSLOW
I.D. # 5127**



**Illinois State Police
Merit Board No. 17-03**

DECISION

THIS CAUSE comes before the Merit Board on a six-count *Complaint* filed by Leo P. Schmitz, Director of the Illinois State Police, following a full hearing before duly appointed Merit Board Hearing Officer Peggy J. Ryan.

FINDINGS OF FACT

The Merit Board, having reviewed the charges filed, the evidence and testimony submitted, the Briefs of Counsel, the Hearing Officer's *Recommended Findings of Fact and Conclusions of Law* and the *Petitioner's Response to the Hearing Officer's Recommended Findings of Fact and Conclusions of Law*, does hereby adopt and incorporate herein the Hearing Officer's *Recommended Findings of Fact and Conclusions of Law*.

The Merit Board finds the Department has not proven Lieutenant Winslow violated the Department's Rules of Conduct (ROC) as alleged in Count I of the *Complaint*.

The Merit Board finds the Department has proven Lieutenant Winslow violated the ROC as alleged in Count II of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Lieutenant Winslow violated ROC-002, Paragraph III.A.64 by engaging in harassing conduct in violation of ISP Directive PER-032 and ISP Directive PER-033, when on or about April 19, 2017, he made contact with Trooper Kromm's breast that was severe enough that

it had the effect of unreasonably interfering with Kromm's work performance as it created an offensive work environment. Lieutenant Winslow's conduct was conduct that could reasonably cause Kromm to feel offended, humiliated, intimidated, insulted, or ridiculed.

The Merit Board finds the Department has proven Lieutenant Winslow violated the ROC as alleged in Count III of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Lieutenant Winslow violated ROC-002, Paragraph III.A.47.g when he consumed alcoholic beverages while off-duty to the extent that it resulted in obnoxious or offensive behavior that discredited himself and the department, when, on or about April 19, 2017, Lieutenant Winslow sent Trooper Kromm a text message reading, "get ur ass here or I'll spank it," and when he made contact with Trooper Kromm's breast.

The Merit Board finds the Department has not proven Lieutenant Winslow violated the ROC as alleged in Count IV of the *Complaint*.

The Merit Board finds the Department has proven Lieutenant Winslow violated the ROC as alleged in Count V of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Lieutenant Winslow violated ROC-002, Paragraph III.A.7 in that he engaged in conduct that discredited the integrity of the Department and its employees and impaired the operations of the Department, when on or about April 19, 2017, Lieutenant Winslow made contact with Trooper Kromm's breast.

The Merit Board finds the Department has not proven Lieutenant Winslow violated the ROC as alleged in Count VI of the *Complaint*.

CONSIDERATION OF MITIGATING AND AGGRAVATING FACTORS

In making its determination of the appropriate level of discipline, the Merit Board considered all mitigating and aggravating factors presented by Lieutenant Winslow and the Department, including, but not limited to, the following:

Lieutenant Winslow presented testimony from Commander Richard Wilk and retired ISP Patrol Commander Victor Markowski. Wilk and Markowski testified to Winslow's reputation as an excellent and highly qualified drug enforcement officer. Lieutenant Winslow testified that he has always met or exceeded expectations in his Part Two and Part Three performance evaluations. Winslow testified that he is sought after in both State and Federal courts as a drug enforcement expert. He has taught for the Inspector General's Academy for Federal Government, taught at a local level, and helped write the curriculum for the Illinois State Police Basic Narcotics Officer's School.

PENALTY

The entirety of the evidence presented shows a substantial shortcoming on the part of Lieutenant Winslow and constitutes cause for suspension. It is, therefore, the unanimous decision of the Merit Board to suspend Lieutenant Kevin Winslow for a period of five (5) days.

Dated this 15th day of January, 2019.



Reeve Waud, Chairman
State Police Merit Board, State of Illinois

**STATE OF ILLINOIS
ILLINOIS STATE POLICE MERIT BOARD**

IN THE MATTER OF:

**LIEUTENANT KEVIN WINSLOW
I.D. 5127**

DOCKET NO. 17-3

**RECOMMENDED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

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I. BACKGROUND

A. Pleadings

On October 26, 2017, Director Leo Schmitz of the Illinois State Police filed a Complaint with the Illinois State Police Merit Board. The Complaint includes six counts of alleged violations against Lieutenant Kevin Winslow (hereinafter "Winslow"). Director Schmitz requested that the Illinois State Police Merit Board conduct a hearing in this matter and suspend Winslow from his employment with the Illinois State Police for a period in excess of thirty (30) days.

The allegations of the Complaint arise from Winslow's conduct at the 2017 Illinois Drug Enforcement Officers Association (IDEOA) Conference in East Peoria, Illinois involving Trooper Samantha Kromm on Wednesday, April 19, 2017 and Thursday, April 20, 2017.

Count I of the Complaint alleges a violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.1 which requires that:

"Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction."

The Complaint alleges that Winslow violated this rule on April 19, 2017, when he failed to obey state law when he committed the offence of Battery, in violation of 720 ILCS 5/12-3, a Class A misdemeanor, in that on or about April 19, 2017, he knowingly made physical contact of an insulting or provoking nature with Trooper Kromm by grabbing her breast without consent.

Count II of the Complaint alleges a violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.64 which states:

"Officers will not engage in conduct that is in violation of the policies and procedures in directives PER-009, "Equal Employment Opportunity," PER-032, "Discrimination and Harassment," or PER-033, "Sexual Harassment." (First Offense – Level 4 Misconduct)."

PER-032, "Discrimination and Harassment," Paragraph I.A., provides:

“The Illinois State Police (ISP) prohibits discrimination in all forms, including but not limited to harassment, and retaliation; such acts are unlawful and will serve as the basis for disciplinary action up to and including termination.”

PER-032, “Discrimination and Harassment,” Paragraph I.B., provides:

“The ISP has determined the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under federal or state law. The ISP will act before the harassing conduct becomes so pervasive and offensive as to constitute unlawful harassment.”

PER-032, “Discrimination and Harassment,” Paragraph IV.B.1., provides:

“Supervisors and managers: ...[w]ill set the standard for acceptable behavior in the workplace. They will ensure their actions are not reasonably offensive based on an impermissible factor regardless of whether an allegation or complaint is received regarding such conduct, and will refuse to tolerate any form of harassing conduct, discrimination, harassment, or retaliation.”

PER-033, “Sexual Harassment,” Paragraph I.A., provides:

“The Illinois State Police (ISP) prohibits sexual harassment; such acts are unlawful and will serve as the basis for disciplinary action up to and including termination.”

PER-033, “Sexual Harassment,” Paragraph I.B., provides:

“The ISP has determined the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under federal or state law. The ISP will act before the harassing conduct becomes so pervasive and offensive as to constitute unlawful sexual harassment.”

PER-033, “Sexual Harassment,” Paragraph IV.B.1., provides:

“Supervisors and managers...[w]ill set the standard for acceptable behavior in the workplace and will refuse to tolerate any form of harassing conduct or sexual harassment.”

PER-033, “Sexual Harassment,” Paragraph IV.B.2., provides:

“Supervisors and managers: ...will ensure their actions are not reasonably offensive on the basis of sex, which includes the characteristics of gender, marital or parental status, pregnancy, or family responsibilities, and includes indicating a casual, dating, romantic or sexual interest towards another by way of conversation, body language or brief physical contact regardless of whether such conduct is one-sided, reciprocated, or encouraged.”

The Complaint alleges that Winslow violated these rules on April 19, 2017 when he sent Trooper Kromm a text message reading “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like.”

Count III of the Complaint alleges a violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.47.g which states:

“Officers will not...consume alcoholic beverages, while off-duty, to the extent that it results in impairment, intoxication, or obnoxious or offensive behavior that discredits them or the Department, or renders the officers unfit to report for their next regular tour of duty.”

The Complaint alleges that Winslow violated this rule on April 19, 2017 when he consumed alcoholic beverages while off-duty to the extent that it resulted in obnoxious or offensive behavior that discredited himself and the Department, when on or about April 19, 2017, Winslow sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue, and/or a beer bottle and said something to the effect of “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at The Pitch bar.

Count IV of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.38 which states that:

“Officers will utilize Department equipment only for its intended purpose, in accordance with established Department procedures and will not abuse or damage Department equipment. Officers will use reasonable care to avoid loss of Department equipment. All Department equipment issued to officers will be maintained in proper order.”

The Complaint alleges that Winslow violated this rule on April 19, 2017 when Winslow did not utilize Department equipment for its intended purpose, when he used his cellular phone provided

by Quad City MEG for departmental use, to send a text message to Trooper Kromm reading, “get ur ass here or I’ll spank it.”

Count V of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.7, Rules of Conduct, which states:

“Officers will conduct themselves on and off duty in such a manner as to reflect favorably on the Department. Officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department. Such actions will constitute conduct unbecoming an officer.”

The Complaint alleges that Winslow engaged in conduct that discredited the integrity of the Department and its employees and impaired the operations of the Department, when on or about April 19, 2017, he sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at The Pitch bar.

Count VI of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.B.2, Rules of Conduct, which states that:

“Supervisors are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and example to ensure the efficiency of Department operations.”

The Complaint alleges that Winslow violated this rule in that Winslow failed to provide leadership, supervision, and example, to ensure the efficiency of Department operations when on or about April 19, 2017, he sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue, and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at The Pitch bar.”

B. Pre-Hearing Procedures

The Complaint in this case was filed on October 26, 2017. Lieutenant Winslow was represented by attorney Guy Studach. Assistant Attorney General Jessica Durkin represented the Director of the Illinois State Police throughout this matter. Discovery was conducted and both parties exchanged documents and witnesses as provided in the Rules.

On or about June 21, 2018, the Attorney General's office, on behalf of the Illinois State Police, filed a Motion in Limine, requesting that the Hearing Officer bar, in limine, any statement, testimony, argument, direct or indirect, by innuendo or otherwise, at any time during the course of the trial of this action, before any member of the Merit Board any allegations of the alleged victim's prior sexual activity or reputation, including any possible flirtatious relationship with Winslow. The Motion alleged that the Illinois Civil Rape Shield Law (735 ILCS 5/8-2801) prohibits evidence offered to prove that an alleged victim engaged in other sexual behavior, or evidence offered to prove any victim's sexual predisposition. 735 ILCS 5/8-2801(a). The Hearing Officer Ruled that she was barring testimony regarding Kromm's prior sexual activity or reputation and/or sexual predisposition. The Hearing Officer ruled that with respect to occurrences on the April 2017 night in question, she would have to consider objections to testimony as objections were presented.

C. Hearing

The hearing in this case was held on June 28 and 29, 2018. Testimonial and documentary evidence was presented. During the hearing, the Director of the Illinois State Police was represented by Assistant Attorneys General Jessica Durkin and Yasemine C. Givan. Attorney Guy Studach continued to represent Winslow. Following the close of the evidence at the hearing on June 29, 2018, a briefing schedule was established for simultaneous written closing arguments to be filed by August 31, 2018. Pursuant to this schedule, the Hearing Officer's Recommended

Findings of Fact and Conclusions of Law were to be submitted by October 15, 2018. Attorney Bruce Bialorucki entered his appearance for Winslow on or about July 17, 2018.

i. Hearing Witnesses

The following witnesses testified at hearing in this case. The page number of the transcript of the proceedings upon which the testimony of the witness starts is included in parentheses.

June 28, 2018

1. Lieutenant Kevin Winslow (11)
2. Trooper Matthew Windisch (27)
3. Sergeant Yvette Ross (63)
4. Trooper Samantha Kromm (82)
5. Deputy Kye Denault (151)
6. Lieutenant Colonel Isaiah Vega (174)
7. Special Agent Matthew Barber (237)

June 29, 2018

8. Elliot Alger (287)
9. Michael Merritt (319)
10. Justin Holmes (335)
11. Patrick Mesick (362)
12. James Rieck (377)
13. Ann Sievert (392)
14. Steve Loan (412)
15. Richard Wilk (436)
16. Victor Markowski (453)

17. Kevin Winslow (464)

ii. Exhibits

The following exhibits were admitted into evidence in this case:

Petitioner's Exhibits

Petitioner's Exhibit 1	Illinois State Police Directive PER-030 Complaint and Disciplinary Investigations
Petitioner's Exhibit 2	Text Messages between Trooper Kromm and Lieutenant Winslow
Petitioner's Exhibit 3	May 2, 2017 Complaint Against Department Member
Petitioner's Exhibit 4	Complaint filed October 26, 2017
Petitioner's Exhibit 5	Illinois State Police Directive ROC-002, Rules of Conduct
Petitioner's Exhibit 6	Illinois State Police Directive PER-032, Discrimination and Harassment
Petitioner's Exhibit 7	Illinois State Police Directive PER-033, Sexual Harassment

Respondent's Exhibits

Respondent's Exhibit 1	Illinois State Police Directive EEO PER-09 Office Policy Directive
Respondent's Exhibit 2	Closing Letter to Trooper Kromm dated 5/19/17
Respondent's Exhibit 3	E-mail from Zach Pellman to Matthew Barber dated 5/19/17/ Questions for Lieutenant McGreal
Respondent's Exhibit 4	Attorney Studach's Letter to Matthew Barber dated 6/22/17
Respondent's Exhibit 5	List prepared by Lieutenant Winslow of witnesses present at Pitch and provided to Matthew Barber
Respondent's Exhibit 6	Case Briefing (overview of DII case against Winslow) of Sergeant Elliot Alger
Respondent's Exhibit 7	Winslow Promotional Skills Evaluations 2012-2018

Respondent's Exhibit 8	Zone 2 Meg/Task Forces and Command, Division of Operations
Respondent's Exhibit 9	Conference Materials for 20 th Annual IDEOA Training Conference
Respondent's Exhibit 10	Demonstrative Diagram of Table Arrangement at Pitch prepared by Winslow

II. SUMMARY OF EVIDENCE

The following is a review of the evidence admitted in this case. This review does not include a recitation of all of the evidence presented in the case and is not intended to be an all-inclusive summary of the evidence. Instead, it is intended to serve as a guide for the basis and understanding of the recommended findings of fact and conclusions of law of the Hearing Officer. The Hearing Officer has specifically considered all of the testimony and exhibits introduced in this case and the arguments, both written and oral, of the attorneys on behalf of the parties. The fact that some of the specifics of the testimony, documents and arguments are not included in this summary should not be interpreted to mean that it has not been fully considered by the Hearing Officer.

A. Petitioner's Case in Chief

LIEUTENANT KEVIN WINSLOW

Winslow has been a lieutenant with the Illinois State Police since, approximately, October 2015. P13. A lieutenant is three ranks above the rank of trooper; one of the responsibilities of a lieutenant is to supervise other employees. P13-14. In April 2017, Winslow was also the president of the Illinois Drug Enforcement Officers Association (hereinafter "IDEOA"). P14. In April 2017 Winslow hosted an IDEOA conference in the Peoria, Illinois area. P14, 28. At the time of the Merit Board hearing, Winslow was no longer the president of IDEOA. P14.

During the IDEOA conference in April 2017, Winslow hosted a gathering in his hotel suite that was designed to fill the time between the conference and the opening of the social hour. P15. Food, beer, alcohol, and soda were all provided at this gathering. P15. Additionally, there was approximately twenty to thirty people in the suite. P15. Winslow consumed alcoholic beverages. He was not in the suite the entire time. P15. He had to leave his suite to attend to matters of the conference. P15. His duties at the conference included: dealing with hotel and conference staff, transportation issues, introductions of speakers, and general day-to-day matters of making the conference run. P16.

Trooper Samantha Kromm (hereinafter "Kromm") and Winslow interacted at the conference when Kromm approached Winslow inquiring as to where everyone was drinking, to which Winslow informed Kromm of the party in his suite and subsequently invited her to attend. P16. Later that same evening the party was moved to Pitch, a karaoke bar. P16-17. Winslow and Kromm were both at Pitch and had further communications with one another. P17. Winslow sent Kromm a text message using a work-provided cellular phone. P17-18. The cellular phone is provided by the Quad City Metropolitan Enforcement Group (hereinafter "QCMEG"). P17. Additionally, this cellular phone is also used for ISP-related business. P17. The text message that Winslow sent Kromm stated "get ur ass here or I'll spank it." P18. Winslow, as a lieutenant, was aware of the policy of the ISP prohibiting any sexual harassment or any harassing behavior. P14.

Eventually, Kromm and Winslow met up and conversed at Pitch. P18. Winslow denied groping Kromm's breast. P18. Winslow testified that he never intentionally grabbed or groped anyone that evening. P18. He further testified that if he had any contact with Kromm's breast that evening it would have been unintentional while he was passing out drinks. P18-19. Winslow further testified that at the time he was interviewed by DII, he intended for his comment that he

did not recall touching Kromm's breast to mean that he did not know if there was an incidental contact, but at no time did he ever reach around and purposely grab someone. P19-20.

While at Pitch, Winslow testified that he had six or seven beers. P20. Additionally, at the gathering in his suite at the hotel, Winslow testified that he had one drink, a rum and coke between 4:00 p.m. and 4:15 p.m. P21, 23. Following the drink in the suite, Winslow, between 6:30 p.m. and 8:30 p.m, had two or three beers at the social hour, which started at 5:00 p.m. P21-22. In addition, during this time, Winslow had taken his medication which included: 25-gram Tramadol tablet, Wellbutrin tablet, and blood pressure medicine tablet. P22. Prior to Winslow's interaction with Kromm at Pitch, Winslow consumed four drinks and took his medication. P23-24.

Winslow testified that he was aware of ISP policy that states that officers will not consume alcoholic beverages while off-duty to an extent that it could lead to impairment, obnoxious behavior, or in any way discredit the department. P25-26. Winslow also testified that he was aware that there were other ISP officers and also police officers from other jurisdictions present at Pitch. P25. At Pitch, Winslow picked up a beer bottle from a table while he was near Kromm. P26. Winslow spit into that beer bottle but he testified that it was not Kromm's beer bottle because it was an empty bottle and that he was chewing tobacco at that time. P26. Winslow also testified that he did not place his tongue in a beer bottle that belonged to Kromm and state "this is what bitch taste like." P24.

TROOPER MATTHEW WINDISCH

Trooper Matt Windisch (hereinafter "Windisch") has been employed by ISP for a little over five years. P28. He is currently employed as a special agent in training and was previously a Trooper with District 5. P28. Windisch attended the IDEOA conference in the Peoria, Illinois area in April 2017. P28. While attending the conference, Windisch communicated with Kromm

– whom he was familiar with because they also attended the state police academy Class 122 together. P28-29. Windisch saw Kromm at Pitch. P29. After arriving at Pitch, Windisch approached the table at which Kromm was seated. P29-30. Windisch became aware of Winslow at the conference because of Winslow's role of host of the conference and president of IDEOA, but he did not know Winslow prior to the conference. P30, 48. Windisch had never been out drinking with Winslow, had never seen him after he consumed alcohol, and had no awareness of what demeanor Winslow had when drinking or not drinking. P48.

While at Pitch, Windisch observed Winslow and Kromm communicating while seated at a high-top table. P30. He observed them sitting at the table and leaning in while talking to one another. Windisch could not hear the content of the conversation because the karaoke bar was loud. P30. Later that evening Windisch observed Winslow reach his right hand across the back of Kromm and go under her right arm and grab her right breast. P30-31, 33. Windisch described the grab as a full hand on the right breast with a hold and then a couple of squeeze motions lasting approximately three to five seconds. P33-34.

Windisch testified that after he observed Winslow grab Kromm's breast, he witnessed Winslow get upset, stand up, take the beer bottle that was in front of Kromm, from which she was previously drinking, stick his tongue on the bottle, slam it down onto the table, and say something along the lines of he thought it tasted like bitch and then walk away. P31. Windisch was unable to say how intoxicated Winslow was at the time of this incident. He said he observed signs of intoxication, including: red glassy eyes, sluggish movements, and fluctuation of volume in his voice. P31. Windisch has received training to recognize and identify symptoms of intoxication and inebriation. P33. Based on the training that he has received, Windisch believed that Winslow was intoxicated when he grabbed Kromm's right breast. P33. After her altercation with Winslow,

Windisch observed Kromm's demeanor change. P31-32. Kromm became closed off and defensive and looked at Windisch with a look of disbelief and had a shocked face before she kind of "shut down". P31-32. Kromm, obviously shaken up and shocked at the time, looked wide-eyed, with shoulders forward, and with a look of embarrassment uttered "wow." P36-38. At this time, Windisch was approximately five feet in front of the table at which Winslow and Kromm had been seated. P32.

Following the incident, Kromm and Windisch had further interactions regarding the incident. P34. Windisch was not sure if he was a mandatory reporter and, when Kromm was seeking advice on what she should do, he advised her that it was up to her whether or not to report the incident. P34. Windisch was aware that Kromm reported the incident – based upon his recommendation – to a female supervisor. P35. Windisch was not aware how many women were in Kromm's district but he did state that the profession is mostly male and his district is mostly male so he would assume that Kromm's district was mostly male as well. P35. Additionally, at the IDEOA conference, there were a majority of men in attendance. P35-36. However, at Pitch, according to Windisch, it was probably half men and half women. P36.

On cross examination, Windisch testified that after the conference on April 19, 2017, he and his roommate ended up going to Pitch. P38. Prior to going to Pitch, Windisch consumed a Bud Light at the hotel and he did not believe he went to any other taverns that night prior to Pitch. P39. Windisch also testified that prior to the conference he knew Kromm from when they attended the state policy academy together in November 2013 and from brief interactions throughout the years as a result of being in neighboring districts. P40. Windisch testified that these interactions were never social in nature and that he had never witnessed how Kromm acted when she was intoxicated. P40.

Windisch testified that on the night at Pitch, he thought Kromm was intoxicated and had slow and jerky movements – sluggish, non-constant movements, where one might appear to be under the influence of alcohol. P41. Additionally, Windisch testified that in his interview with DII he believed he made a statement that Kromm was very outgoing (more so than other females that he had come into contact with) and talkative, which could be misinterpreted as flirty. P41-42. Windisch had never had a relationship with Kromm. P42.

Windisch testified that he and his roommate and co-worker Brian Frank arrived at Pitch around 9:30 p.m., give or take. P42. When the two of them arrived, there were between fifty and seventy-five people in the relatively small, dark, and loud bar. P43. According to Windisch, the lights were dimmed as a normal bar or tavern would be and that it was loud because of the music going on at that time. P43-44. Upon arriving at Pitch, Windisch approached the table where Kromm and Winslow were seated. P44. The table had four or five chairs but only Kromm and Winslow were seated. The others were standing near the high-top table. P44. Windisch observed Winslow sitting on the left side of Kromm with nobody on her right, and that when Winslow grabbed Kromm's breast, Winslow was on her left side. P44-45. Windisch did not recall telling DII that Winslow and Kromm were standing shoulder to shoulder when Winslow grabbed Kromm's breast, or that he (Windisch) was seated to the right of Kromm when the breast grabbing took place. P45, 47, 58. Similarly, Windisch did not recall telling DII that Winslow approached Kromm from the back while she was seated at the table and put his hands underneath her arms. P47. Windisch had no awareness that Kromm alleged that Winslow grabbed her left breast and he did not believe Kromm ever told him that Winslow grabbed her left breast, and that he never saw Winslow grab the left breast. P45, 57.

When Windisch observed Kromm and Winslow seated at the table he also noticed what he believed to be three empty Bud Light beer bottles on the table. P46. Windisch did not recall if any of the bottles were Coors Light but he testified that there could have been; he just saw blue labels. P46. Windisch did not know for sure where the beer bottles came from; he just knew they were sitting in front of Winslow and Kromm. P46. Additionally, he never observed Winslow spitting into any of the bottles and the only time he saw Winslow place his tongue on the bottle was when Winslow stood up and proclaimed that it “tasted like bitch.” P57. Additionally, Windisch was not aware that Winslow chewed tobacco that evening. He never observed Winslow spitting any tobacco into a beer bottle. P57. Windisch testified that he did not recall seeing Winslow buying beers for patrons or handing out beers to people seated at the table that night. P47. The table that the two were sitting at was in the center of the room. Karaoke was taking place in the back half of the bar. The distance from the speakers was maybe ten to fifteen feet. P46-47.

Windisch testified that he had an opportunity to review a summary of his interview with DII prior to testifying at the hearing, that he did indeed review the summary, and that his testimony at the hearing was still that Kromm was seated at the time her breast was grabbed. P48. Additionally, Windisch further testified that Winslow was intoxicated based upon his bloodshot eyes, even though, by his own testimony, the bar was dimly lit (Windisch stated he was within five feet, give or take, from Winslow). P49. Windisch only heard Winslow speak when Winslow grabbed a beer bottle and his observations of Winslow’s speech also contributed to Windisch’s opinion that Winslow was intoxicated. P49.

At the time that Windisch observed Winslow grab Kromm’s breast he said the only two people seated at the table were Kromm and Winslow. He said there were others in the area but

they were involved in conversation and Windisch did not know how much the others were able to see because of those conversations. P49, 50, 56, 57. At this time, Windisch was returning from listening to karaoke and was walking up to the table, which is why he said he was able to see the grabbing of the breast. P49-50. After the incident occurred, Windisch said he stood there surprised at what he had just witnessed and observed Kromm looking directly at him in a sense of shock. P51. Windisch remained at the table following the incident to allow Kromm to vent and subsequently stayed at the bar for another ten to fifteen minutes. P51. Additionally, throughout the evening, Windisch did not observe anyone besides Kromm and Winslow seated at the table. P51. Windisch was not aware of any other altercations that Kromm had with anyone else that evening. P51-53.

After the conference, Windisch had conversations with Kromm about reporting the incident with Winslow. P53-54. In these conversations, Windisch recommended that Kromm talk to Lieutenant McGreal (hereinafter "McGreal") regarding the incident with Winslow since Kromm was uncomfortable going to a male supervisor with the complaint. P55. Windisch testified that while he was attending an EEO class, he approached McGreal with a hypothetical type of situation and after having that discussion he told Kromm that if she wanted to report the incident to McGreal, McGreal would listen. P55-56. Windisch testified that he was not aware that Kromm stated to DII that he pushed her into making the Complaint. P55.

Windisch testified that he does not know Deputy Denault and that he was positive that it was Winslow that grabbed Kromm's right breast. P57.

On redirect examination, Windisch testified that the table that Winslow and Kromm were seated at was higher than an average table, maybe three feet tall, and it was round. P59. At the time of his observations, Windisch was directly across from Kromm and Winslow. P59.

Additionally, throughout the conference, Windisch testified that he had an opportunity to observe Winslow's demeanor and hear Winslow speak, and that his demeanor at Pitch was different than at the conference because, at the conference, Winslow maintained a very calm and direct public speaking voice and was not yelling, did not have slurred speech, and his volume remained relatively equal, unlike at Pitch. P60.

On recross examination, Windisch again testified that if the summary of his DII interview stated that Kromm and Winslow were standing (1) the summary was incorrect or (2) he misspoke at the interview because he saw them seated. P60-62.

On redirect, Windisch again stated that when he was interviewed by DII he stated that he observed Winslow grab Kromm's breast and again at the hearing his testimony was that he observed Winslow grab Kromm's breast. P62-63.

TROOPER SAMANTHA KROMM

Kromm has been a Trooper for the ISP for five years. P85. At the time of the hearing Kromm was on a 90-day temporary duty assignment with the Crime Pat Unit of the ISP. P84-85. At the time of the incident in April 2017, Kromm was a trooper K9 handler out of District 17. P85. Kromm attended the IDEOA conference on April 19, 2017 in Peoria so that she could learn more about drug interdiction and to take different classes that were being offered at the conference. P85. Kromm and Winslow had met prior to the IDEOA conference when the two were on a crime pat detail in District 7 when they were searching a vehicle. P86-87. Between the crime pat detail and the IDEOA conference, Kromm and Winslow did not have any communications in person, on the phone, or via text message. P87.

While at the conference, Kromm initiated a conversation around 3:00 p.m. with Winslow when she went to the back of the room to get a glass of water. P86-88. During this conversation,

Winslow informed Kromm that he was the president of IDEOA and the two discussed drinking and Winslow let Kromm know that people were drinking up in his room. P86-87. Kromm said she felt it important to initiate the conversation with Winslow at the conference because she had seen him prior and because he was upper command. P88. Kromm testified that, for a trooper, it is important to speak to upper command, even if they are from another district, to give them respect and address them appropriately or suffer repercussions; including being written up or negative counseling. P88. After Winslow invited Kromm to the party in his room, the two of them went upstairs. P88. Prior to going upstairs, Kromm had not had any alcoholic drink that day. She commenced drinking alcohol when she arrived in the suite. P88. Kromm said she had a couple of shots of a brown liquor (Jack Daniels she believed) in the suite. P89. Kromm observed Winslow having a mixed drink in the suite. She was unsure what type of mixed drink. She testified he had more than one. P89. While Kromm was in the suite, she estimated there were 15-20 other people there and maybe one or two other females that were part of Winslow's task force. P89. Kromm did not take any alcohol to the suite; it was all provided by Winslow. P89.

Kromm and Winslow exchanged phone numbers while they were in the suite. P90. Kromm testified that she exchanged her number for networking purposes and because Winslow's task force is in the same area that Kromm patrols. P90. After Kromm and Winslow exchanged numbers, Kromm's friend, Deputy Kye Denault (hereinafter "Denault"), arrived at the suite. P90-91. Kromm and Denault had known each other since they were kids as they attended high school and grade school together. P91. Denault was also an attendee at the conference. P90. Kromm and Denault then left the suite together and went back downstairs to get ready for the evening. P91.

After getting ready for the evening, Kromm and Denault went to the Embassy Suites for a meet and greet with hors d'oeuvres and drinks that started at 5:00 p.m. P91. At the Embassy Suites, Kromm had a couple of beers and she and Denault stayed there for an hour or two. P91-92. After the meet and greet at Embassy Suites, Kromm and Denault went to Kelleher, another bar in town. P92. Other troopers and Trident members were present at Kelleher while Kromm and Denault were there. P92. While at Kelleher, Kromm consumed more alcoholic beverages and ate some cheese sticks. P92. It was also while she was at Kelleher that she testified she received some text messages from Winslow letting her know where he was at. P93.

The first text message was a message from Kromm to Winslow at 7:14 p.m. P94. During the text message exchange, Winslow invited Kromm to Pitch but Kromm initially said no to the invitation and told Winslow to "come here." P94-95. Winslow responded "nope". P95. Kromm then responded with the middle finger emoji and Winslow's response was for Kromm to ditch her chaperone, Denault, and to go to Pitch. P95. The two continued text messaging one another and then eventually Winslow texted "Get your ass here or I'll spank it" to Kromm. P96. Kromm did not respond to this message from Winslow and she testified that the message made her feel violated (she felt like he was insinuating something sexual), and embarrassed. She testified the text message was completely inappropriate (Winslow was a lieutenant and president of IDEOA). P96.

Kromm eventually went to Pitch because, she said, that was where everyone was at. P97. When she arrived at Pitch there were a lot of people there, including troopers, police officers, and a bachelorette party. P97. Trooper Brian Frank (hereinafter "Frank") and Windisch were also at Pitch when Kromm arrived. P98. Kromm described Pitch as having a dance floor at the back where the karaoke was taking place and a bar located near the entrance. P97. Kromm testified that it was loud in Pitch that evening. P97. Once she arrived at Pitch with Denault, she went and

got a Bud Light from the bar and then sat down at the bar for just a couple of minutes before going over to a round high-top table where others were located. P97-98. At the high-top table, Kromm sat down while Denault stood next to the table. P99. Because of the height of the table, Kromm was able to converse with those standing around the table. P99.

Kromm was not sure what time she first saw Winslow at Pitch. P99. She testified she was sitting at the high-top table when she saw him and that he approached the table. P99-100. It was then that he came up from behind her and while she had her hands on the table, he brushed her right breast and then squeezed her left breast once. P100. Kromm testified that she never gave Winslow consent to squeeze her breasts and that when he did this she was shocked and extremely uncomfortable and felt very violated. P100. When this happened there were also other ISP members present. P100. After this happened, Kromm did not say anything but Winslow grabbed her beer bottle, stuck his tongue in the bottle, and said "so this is what bitch taste like" and then he walked away ending the encounter for the evening. P101. Kromm testified that she felt pretty awful when Winslow grabbed the beer bottle and stuck his tongue in it. P101.

After Winslow left the table, Kromm conversed with some other troopers who witnessed the incident. P101. They asked her what had happened. She said one saw it happen and the other saw her facial expression after it happened. P101. At this time she said Windisch did not say anything because he was not aware of any history between Kromm and Winslow or whether they were dating. P101. Kromm was able to see that Windisch had observed Winslow grab her breast. P101. Kromm testified that others noticed her change in demeanor after Winslow grabbed her breast because they could see her facial expression but she felt they just did not want to say anything because they were all male and no male was going to stand up against a lieutenant or the president of IDEOA and go out on a limb for her. P102. Kromm testified that she also had

difficulty speaking up because Winslow was an authority figure and also the one who had just violated her in front of a room of her colleagues. P103.

Kromm stayed at Pitch for about 10 to 20 minutes after the incident. P104. Kromm did not report the incident to anyone that evening and the next day she went about business as usual and attended the conference. P104. Kromm received more messages from Winslow late that evening of April 19, 2017, and into the morning of April 20, 2017. P104. The messages from Winslow were asking Kromm where she was at and that his phone had died. P104. Kromm responded that her phone too, to which Winslow responded “wow, even your voicemail sounds ADD. Okay. See you later. Whatever. Chickenshit. LOL.” P104. Kromm testified that she felt as if she needed to continue responding to Winslow’s messages because he was in a position of power and because she was in a man’s world. P105. While at Pitch, Kromm observed that Winslow had been drinking but did not know his level of intoxication. P105. After April 20, 2017, Kromm did not have any more communications with Winslow. P105.

After the conference, Kromm spoke with some other troopers and other police officers about the incident and both males and females told her to keep her mouth shut. P105-06. Kromm said she stayed quiet for two weeks or a month debating what she should do. She did not want to be ridiculed. P106. She then made a complaint to Lt. McGreal out of the Chicago district. P106. She said Windisch suggested she speak with McGreal. P106. She said she began speaking with Windisch about the incident the evening of the incident, the next day, and then they continued to talk after the incident, up until the conversation with McGreal and then the two did not talk anymore (until briefly in the hall the day of the hearing). P107.

When Kromm called McGreal, Kromm requested to speak to her about a hypothetical situation. P107. It was after speaking with McGreal that Kromm decided to file the complaint

against Winslow. P108. Kromm was aware that if she did not file the complaint that McGreal may have filed a complaint. Kromm testified that influenced her decision to file the complaint but she did not feel pressured to file it. P108. Kromm said she filed the complaint on her own volition. P108-09. Prior to her conversation with McGreal, Kromm had not filed a complaint with the EEO office. P109. McGreal advised Kromm that she would contact Captain Bird and that Kromm should call EEO to file the complaint. P109. After the EEO complaint was filed, Kromm met with Sergeant Yvette Ross (hereinafter "Ross") on May 2, 2017. P109. When Kromm met with Ross, Kromm walked her through what had occurred with Winslow on April 19th at Pitch. P109-10. Kromm testified to the accuracy of the complaint that she had in front of her at the hearing (Petitioner's Exhibit 3). P110. After the complaint was filed, Kromm met with DII and during her interview she told DII everything that she testified to at the hearing. P110.

Kromm testified that she would not want a lot of people to know that Winslow had grabbed her breast because it was humiliating and it was done in front of a room full of people, people that were her colleagues. P111. Kromm also testified to difficulties relating to being a female trooper. P112. She said what she does is never good enough relative to what a man does. She said when she walks into an office, men walk out. She said one day a man introduced himself to everyone at a table but her. She said she is not held to the same standards as a man. P112.

On cross examination, Kromm stated that she did not remember exchanging phone numbers with Winslow before April 19, 2017 when the two were on a crime pat detail in 2015 and was also unaware that Winslow had her number prior to the seminar. P112. Kromm stated that, although she was not in uniform, she was dressed in ISP gear since she was at the seminar representing the state police. P113. Kromm remembered having a discussion with Winslow around 3:00 p.m. the first day of the conference and asking him whether or not he was going

drinking. P113. Kromm did not recall discussing promotions with Winslow. She remembered telling Winslow she wished she had a lieutenant like him in her district. P114. According to Kromm, Winslow had a reputation with his people and other troopers as being a great lieutenant. P114. It was during this conversation that Winslow invited Kromm up to his suite because people were drinking in there. P114. There were a number of men in Winslow's suite. P114. Once in the suite Kromm poured a shot and offered it to Winslow. P115. Kromm did not recall whether Winslow left the suite to attend to his duties as president of the conference. She denied that the only thing Winslow had to drink while in the suite was a rum and Coke. P115. While in the suite, Kromm stated she had a couple of shots. P115. Kromm stated that after she left the hotel suite she went downstairs to the meet and greet or happy hour at the hotel. P116. Kromm did not recall at what time she left the hotel, but at some point, she left the happy hour with Denault after she had had a couple of beers. P117.

At 7:14 p.m. on April 19th, 2017, Kromm sent Winslow a text message (she believed she was already at a bar when she sent it). P117-118. The text messages from Kromm in the beginning seemed to be typographical errors. P118. One such example was "Sammy LOL." P118. Kromm then texted Winslow and stated "why wouldn't you love me." She did not agree that there would be sexual connotations with that message. P118-119. Kromm stated that she is an outgoing person and that people get along with her and that was all she meant by the text message and she was just conversing with Winslow. P119. Kromm did not recall if her text was in response to anything said previous to that text, by Winslow. P119-120. Kromm did agree at the hearing that looking back, the text message asking "why wouldn't you love me" was probably not proper for her to send to a lieutenant. P121. Kromm testified that she did not believe that

Winslow could have any belief that there was any sexual connotation to the text message she had sent. P121.

Kromm stated that she felt humiliated when she received the text from Winslow that said “get your ass here or I will spank it.” P121-122. Kromm stated that she was aware Winslow was at Pitch and she went to Pitch after knowing Winslow was there. P122. Kromm stated that the first thing she did when she arrived at Pitch was to go to the bar with Denault, not approach Winslow’s table. P122. Kromm did not recall how much she drank while at the bar but stated that she did tell DII repeatedly during her interview that because of her level of intoxication she did not recall much; however, Kromm stated that she felt pressured and uncomfortable by DII and felt like the investigator was insinuating that she had sexual relations prior to the conference and that was why she answered the way she did in the DII interview. P123. Kromm also testified that because of her lack of comfort in the DII interview she kept telling the investigators that she did not recall the information, especially regarding the tongue in beer bottle incident and the alleged statement that occurred at that time. P123-126. She said she remembered Winslow sticking his tongue in her beer after talking to Windisch. P124. She said she discussed the tongue in the beer bottle incident with Windisch prior to her DII interview. P124-125. She acknowledged telling DII she did not see Winslow stick his tongue in her beer bottle, but said she was not comfortable giving the interview. P125.

Kromm stated that the reason she told DII that she felt pushed by Windisch to file the complaint was because she did not want to go through the process, especially since she was a female and did not want to have to sit and deal with it. P126. Kromm also stated that she filed both an EEO complaint and then a CADMF. P126. The CADMF was prepared by Ross and signed by Kromm. P127. Kromm said she understood that everything in the form was true under

the penalty of perjury. P127. Kromm also stated that she understood the need to be consistent with what was in the CADMF and what was told to DII. P127.

Prior to arriving at Pitch, Kromm stated she had consumed beer but did not know her level of intoxication, other than believing she was under the influence of alcohol, but not intoxicated. P128. Kromm again testified that prior to arriving at Pitch, she and Denault were at Kelleher's, arriving at Pitch at approximately 10:00 p.m. P128-129. Kromm again testified that Pitch was crowded when they arrived and that there were a lot of police officers at the bar but that she was unaware if there were other conferences going on. P129. Kromm testified that she did not know how long she and Denault were at the bar area of Pitch but while at the bar, the two of them had beer. P130. Kromm stated that she did not approach Winslow at Pitch. She said after she left the bar area at Pitch she went to the high-top table and sat down. She did not recall how many seats were at the table or who else was seated with her. P130. She said Denault was to her left but she did not know if he was sitting or standing. P130. She said Windisch was standing to the right. She does not recall Windisch sitting at the table. Because of the set up of the table, Kromm could not remember if those around the table were seated or standing but she did remember other police officers being around the table. P130-131. Kromm also remembered that there were some guys from Black Hawk seated at the table when she was seated there. She said Winslow was not originally seated at the table when she sat down. P131.

Kromm again described the setting at Pitch, stating the karaoke was at the back of the bar and the lighting was not bright, but also not pitch black, and music was playing while people were singing. P132. Kromm stated her first contact with Winslow at Pitch was when she was seated at the table and he came up behind her and put his arm underneath her arm and brushed against her right boob and then grabbed her left breast. P132-133. In regards to the beer bottle, Kromm again

testified that after talking with Windisch that night she remembered Winslow sticking his tongue in the bottle and making the statement about tasting like bitch. P134. She said she did not recall the statement until after talking to Windisch because she was more concerned about getting grabbed. P134. Kromm again stated that she was uncomfortable speaking with the DII investigators with a male present. Kromm said she knew that when she filed a CADMF she would have to give a DII interview. P134.

During her DII interview, Kromm provided Alger and Barber with her telephone to view the text messages. Kromm said she had nothing to hide. P134-135. Kromm stated she became upset during the interview because she felt Barber insinuated that she had had a sexual relationship prior to meeting Winslow. She acknowledged getting up and leaving the interview. When she returned she stated that she told Sergeant Alger that she would not speak to Special Agent Barber because she did not feel comfortable. P135. She said she did not say she would not discuss the text messages. P136. Kromm did not file a complaint against the DII investigators. P136.

After the incident with Winslow at Pitch, Kromm stated she remained at Pitch for a little bit and then left. P136. Kromm testified that she recalled sitting with a person with a beard who stole a sandwich out of her purse, which caused an argument between the two of them. Kromm denied sticking her finger in anyone's drink. P138-139. Kromm recalled Winslow and a female detective having to intervene and split up she and the police officer (Justin Holmes), after the altercation. P142. After this interaction, Kromm and Denault left Pitch but she does not recall what time they left or where they went after leaving. P143.

Kromm said she was humiliated and pissed off at Winslow for his actions. P143.

The next morning, April 20, 2017, at 11:02 a.m., Kromm received a text message from Winslow indicating he was having problems with his phone. Kromm responded at 11:28 a.m.

asking him if he was drinking. P144. (Petitioner's Exhibit 2, p. 5). After this message, Kromm sent Winslow another text asking him if he had beer and when he responded in the affirmative she replied "well, shit, let's go drink." P144-145. Kromm acknowledged an appearance of her inviting Winslow to go drink. P145. Kromm testified that she sent text messages regarding going drinking because she was "so embarrassed" and didn't know what she was supposed to do because she was concerned about Winslow retaliating against her. P145-146. Kromm stated she was concerned about her career and her position with the state police and that was why she invited Winslow to go drinking that next day and she felt that if she just ignored him he would be upset with her. P146.

Kromm has been a trooper for five years and in that time since she graduated from the academy, up until April of 2017 at the conference, she very rarely had seen Windisch, she was not certain that she had seen him at all in that time. P147-148. Between graduating from the academy and the night at Pitch, Kromm had not drank with Windisch. Kromm stated Windisch was to the right of her, standing a distance away, at the time Winslow grabbed her left breast but she could not recall if Windisch was seated or standing at the time. P148. Kromm denied Winslow standing shoulder to shoulder with her when the incident occurred. P149.

Kromm agreed that Winslow was not her supervisor P149 and not in her chain of command. Further, she stated that Winslow has nothing to do with her ratings or chances of promotion. P149-150.

On redirect examination, Kromm stated that Winslow could still have an influence over her abilities to rise in rank with the ISP, especially if she ever decided to go to a task force. P150. Kromm felt this way because of Winslow's position with IDEOA. P150.

DEPUTY KYE DENAULT

Deputy Kye Denault ("Denault") had been employed by the LaSalle County Sheriff's Office for approximately fourteen years. The past two years he was assigned to the Trident Drug Task Force. P152. Denault and Kromm were childhood friends of 20 years, having grown up together. P152-153. Denault first met Winslow at the IDEOA conference and he knew that Winslow had something to do with the running of the conference. Additionally, he was aware that Winslow was assigned to the Quad City MEG. P152. While at the conference, Denault attended the social hour that was hosted by Winslow in Winslow's hotel suite and there is where he met up with Kromm. P153. At the social hour, Denault stated that he consumed a beer or two and that he was not there long. P153. Denault also observed Winslow in the suite at one point but did not remember what Winslow was drinking. P153.

Denault testified that he believed he would be able to tell if Kromm was highly intoxicated since he was familiar with her demeanor when she had been drinking. P153. At some point later in the evening, after leaving Winslow's suite, Kromm and Denault went to Pitch together. P153-154. While at Pitch, both Denault and Kromm consumed drinks but Denault did not know how many, but testified that neither of them was highly intoxicated while at Pitch. P154. Denault further testified that at some point throughout that evening he was both seated and standing by the high-top table with Kromm. P154. Denault also observed Winslow at Pitch that evening. P155. Denault observed Kromm and Winslow speaking that evening at Pitch but did not observe any physical contact between the two. P155.

Denault testified that while he was at the high-top table with Kromm and Winslow he observed Kromm appear upset and shocked after an interaction with Winslow. P156-160. Denault

testified that immediately after he observed a mad and shocked Kromm she told him that Winslow “grabbed my tit.” P160-162.

On cross examination Denault stated that, although he has known Kromm for around twenty years, the two of them had not gone out drinking very often. P162-163. Denault also testified that he had told DII that in his opinion, Kromm “was not ripped at all.” P163. He was unaware that Kromm had told DII that she was so intoxicated that she could not recall several of the events. P163. Denault testified that on April 19th, 2017, after the conference he and Kromm walked up to Winslow’s suite together but he did not recall what she was drinking or how much anyone was drinking because there was no reason for him to pay attention to those details. P163-164. Following the gathering at Winslow’s hotel suite, Denault went to another happy hour in the hotel but he could not remember who he went with but did remember that Kromm was there with him at some point. P164. He did not know how much Kromm drank. P164-165. Denault could not remember where he and Kromm went after leaving the hotel happy hour but did remember that at some point that evening the two of them ended up at Pitch. P165.

Denault was not aware that evening that Kromm was sending messages to Winslow and he stated that she never complained that she had received an improper text from Winslow. P166. Denault did not recall what time they arrived at Pitch on April 19, 2017, but he did recall visiting with people when they arrived. P166. Denault testified that he had never been at the bar before and that it was not a huge place but had karaoke going on and there were a lot of people there that evening. P166-167. Denault stated he was shoulder to shoulder with people and they would bump into each other when they were moving around. P167. While at Pitch, Denault saw Winslow in the bar over by the round pub table they were sitting at. P167. Denault did not recall how many chairs were at the table and he remembered Winslow standing when he first saw him. P168. At

one point in the evening Denault was seated at the table with Kromm. P168. Denault testified that when Kromm told him that Winslow had “grabbed my tit” he (Denault) remembered turning and looking across to his right but he could not remember if he was seated or standing at that time. P168-169. Denault admitted that he was not paying attention to what had allegedly happened between Winslow and Kromm so as a result he did not see anything. P169. Denault did not know if anyone else was seated at the table when the incident occurred. P169. Denault remembered observing someone else seated at the table with Kromm but he did not know his name, and Denault did not know who Windisch was. P169.

Denault testified that he did not see Kromm stick her fingers in anybody’s drink that night. P169-170. Denault did not see Winslow stick his tongue in a beer bottle, or hear Winslow make a comment that’s what “bitch taste like.” P170. Denault testified that the karaoke microphone was maybe twenty feet away from the table and the place was loud. P170. Denault also stated that the lighting allowed you to see faces and what people were wearing, and additionally it was light enough to speak with people but it was difficult to speak because of the noise level. P170-171. Denault stated that he had to raise his voice to a level above ordinary conversation level to talk with people. P171. Denault did not remember when he left the bar or who he left with. P171. Additionally, Denault did not recall any altercation between Kromm and someone other than Winslow. P171. Denault also did not remember if Kromm told him she had an altercation with another officer over a sandwich or that Winslow and another officer had to break up the altercation. P171-172. After Kromm told Denault that Winslow grabbed her tit, they both remained in the area but Denault did not remember where Winslow went after that. P172.

Denault again testified that he did not see any of the altercations that evening at Pitch but only that Kromm had told him Winslow had grabbed her inappropriately. P173. Denault did not

recall if people were depositing their empty beer bottles on the table in which the altercation took place. P173. Denault stated that he was drinking Coors Light that evening and that he had more than one beer while he was at Pitch and then when he would finish his beer he would put it on the table. P173-174.

LIEUTENANT-COLONEL ISAIAH VEGA

Lieutenant-Colonel Isaiah Vega (hereinafter "Vega") had been employed by the ISP for approximately twenty years, and had been assigned to the DII as Lieutenant-Colonel for approximately nineteen months before which he was Master Sergeant in DII for the previous twelve months. P175. Vega's duties at DII include: day-to-day administrative tasks, overseeing administrative functions, overseeing the case review with the Colonel, attending meetings, giving guidance and input as necessary on cases, and overall pushing a lot of paper. P175. Vega stated that he had reviewed the administrative charges that were presented against Winslow (Petitioner's Exhibit 4) but does not recall whether he has reviewed any administrative rules that were applicable to the complaint. P175-176. Vega stated that the DII follows a disciplinary matrix (Petitioner's Exhibit 5) that includes certain levels of offenses which, depending on that level of offense, includes a recommendation for suspension time or other recommended discipline for each of the categories or levels. P176. Vega believed that there was an attempt to negotiate with the trooper's union on the discipline set forth in the matrix. P176. In April 2017, Vega stated that Winslow was required to follow the rules of conduct. P177.

Vega testified to the counts of the complaint. P177-193. (Petitioner's Exhibit 4). For Count I, Violation of state law, battery, Vega stated that ISP rule 3A1ROC0023A1 stipulates that ISP personnel must abide by all federal, state, and local laws. P177. Vega stated the basis for the Count I charge against Winslow was that on April 19th, his conduct was such that it amounted to

a battery when he knowingly made physical contact with Kromm without her consent by touching or grabbing her breast. P177-178. Vega testified that he was aware that in Merit Board proceedings the standard of evidence is preponderance of the evidence which is less than the criminal standard. P178. Vega stated that, in his opinion, Winslow violated the rules of conduct based on his actions on April 19, 2017 by failing to uphold the law as it relates to battery, by committing a battery when he placed his hands on another individual without their consent. P178. Vega stated that Winslow's actions required discipline because it is important for leadership to drive a culture in the organization and the culture that you want to ensure is portrayed not only from within its members, but to the public, is one that exudes confidence and trusts. P178. Vega continued and stated "We have to ensure that our people are, they are guided, and more importantly that they are protected from incidents like this or we ensure that we are not placing them in this type of situation." P179. Vega testified that the motto of the Illinois State Policy is integrity, service, and pride. P179. The highest level of discipline available under the matrix for the Count I violation is a level four charge for a first offense, which is a 31 to 45 days suspension. P179.

With respect to Count II, engaging in conduct in violation of discrimination and harassment, Vega referenced PER-32, the discrimination and harassment policies of the ISP. P179-180. Petitioner's Exhibit 6. He said there is a different standard under that policy for supervisors. P180. Under section 4B of that policy, the expectation of a supervisor is to not tolerate nor participate in any conduct that can be construed as discriminatory or harassing conduct and supervisors are to set the example for what is appropriate behavior. P180. The reason, according to Vega, for the different standards for a supervisor and a lower level employee is because supervisors drive the culture and are responsible for ensuring that they are providing good example and leadership to their subordinates. P180-181.

Vega, referring to Petitioner's Exhibit 7, said PER-33 is the ISP policy on sexual harassment and the standard for supervisors is similar to that under PER-32 in that supervisors are setting the standards and their behavior should not be reasonably offensive based on any of the factors (as in this case, gender). P181. According to Vega, the basis for Count II against Winslow is that he sent an inappropriate text message to Kromm when he indicated for her to get her "ass over here or I'll spank it," the touching of Kromm's breast, gestures by Winslow with either his hand, tongue and/or a beer bottle with a statement to the effect of "so that's what bitch taste like." P181. Vega stated that these actions do not set the standard, are not acceptable, and "are not what is expected of a lieutenant or anybody in a supervisory role that is charged with ensuring that discrimination or harassment in any way, shape or form is tolerated." P182. Vega testified that it was these three separate instances that formed the basis of Count II for violation of the departments harassment and discrimination policy. P182. Vega stated that it was his opinion that Winslow violated the policy by not setting a proper example or portraying appropriate behavior for a lieutenant in the state police, and that he, Winslow, involved himself in conduct that could be construed as harassment, harassing conduct and/or sexual harassment. P182.

Referring to Petitioner's Exhibit 6, Vega further stated that the directive defines harassing as "any conduct that may reasonably cause another person to feel offended, humiliated, intimidated, insulted or ridiculed based on any physical factor which does not rise to the level of harassment as a fine in this directive." P183. Vega testified, in his opinion, Winslow committed harassing conduct in this case by making physical contact with Kromm's breast without her consent, sending an inappropriate text message, and making an inappropriate gesture and comment to the effect that "this is what bitch taste like." P183. The impermissible factor in this case was Kromm's gender. P183. Vega testified that within Count II, the department is citing two different

policies, both of which, in Vega's opinion, Winslow violated and as a result of violating each of those policies the highest level of discipline for Count II would be a level for action which would bring a 31 to 45-day suspension. P184. In Vega's opinion, a supervisor engaging in a violation of the discrimination and harassment policy requires discipline from the ISP to maintain the integrity of the department, the integrity of the operations, of work units, and to ensure that the department is not sending the wrong message as it relates to subordinate-supervisor relationships. P185. Additionally, Vega stated discipline is needed so that people are treated equitably, fairly, and justly, whether they are at work or not. P185.

Referring to Petitioner's Exhibit 4, Vega stated that the basis of the charge in Count III (consuming alcoholic beverage to the extent that it results in impairment or obnoxious or offensive behavior) was that Winslow consumed alcoholic beverages to the extent that his behavior was offensive to one or more parties, that he sent inappropriate text message, made crude gestures, made physical contact with a female trooper without her consent and made inappropriate statements in the presence of others. P185. In Vega's opinion, Winslow violated the rules of conduct by consuming alcohol to the extent that resulted in his impairment or obnoxious or offensive behavior. Because his consumption of alcohol caused his conduct to be harassing in nature to another individual, it discredited the department, and Winslow himself. P186.

Referencing the Complaint, Petitioner's Exhibit 4, Vega stated the applicable rule that applies to Count IV is ROC002, paragraph 3A38 which requires personnel to utilize department equipment for intended purposes. P186. Vega stated that, in this case, the sending of an inappropriate text message is neither official business nor is it appropriate, acceptable or professional. P186. Within these messages, Vega testified that one message from Winslow stated "get your ass here or I'll spank it." P187. Other messages from Winslow to Kromm used swear

words from his work phone to Kromm including the word fucking on two occasions. P188. Vega's opinion was that Winslow violated the directive about misuse of department equipment and discipline for such a violation is required. Vega stated that when a lieutenant misused department it is important to require discipline to ensure that abuse is not widespread across work units because it could be a "nightmare later on if they are using it inappropriately and they are later FOIA'd or subpoenaed and those records show that they were using it for other purposes." P189. The highest level of discipline for misuse of department equipment is a level one offense that comes with a reprimand and three-day suspension. P189.

Referencing Petitioner's Exhibit 4, the Complaint, at page 9, Vega said Count V of the charges against Winslow is conduct unbecoming of an officer. P189. The applicable rule for that charge is A 3A7, and Vega stated that the basis for that charge against Winslow is that officers are to conduct themselves on and off duty in such a manner that it reflects favorably on the department. P189-190. Vega further stated that Winslow, "by participating in conduct that led to harassing conduct, by sending inappropriate messages or improper touching, gestures and the crude statement he made at the end," did not exhibit behavior that reflected favorably on the department and it is behavior that the department would not like to see from its command personnel, supervisors, or leadership. P190. In Vega's opinion, Winslow violated the rules of conduct on April 19, 2017 by exhibiting conduct unbecoming of an officer. P190. Vega stated that the highest level of discipline for a conduct unbecoming first offense is a level one charge that calls for a reprimand and three days suspension. P192.

Referencing the Complaint, Petitioner's Exhibit 4 at page 10, Vega testified that Count VI of the charge against Winslow was a violation of rules and regulations for supervisory personnel. P190. The applicable rule, 3B2, states, according to Vega, that supervisors are responsible for

maintaining discipline with pride, leadership, and example. P191. Vega testified that the basis for this charge was that Winslow made inappropriate comments via text, made inappropriate gestures, inappropriately touched Kromm, and made inappropriate statements to the effect of “so that is what bitch taste like.” P191. Vega stated: “These are not statements or comments or actions or conduct, whether physical, nonverbal or verbal, that the department would promote or condone. They are actions that tend to demoralize.” P191. In Vega’s opinion, Winslow violated the rule of conduct paragraph 3B2 by failing to provide leadership by example. P192. Vega stated that supervisory personnel set the standard and that they must set an example, not become an example. P192. Count VI has no level of discipline assigned to it and, according to Vega, that is because typically in the past, the highest level charge is what is attributed to that charge and it has gone higher than that in the past or the discipline has gone higher or lower. P192.

Vega stated that officers are to treat each other with respect, and an officer of a lower rank could be charge with insubordination but it goes both ways, up and down the chain. P193. Vega testified that nobody likes a boss who is a bully and nobody likes to work for, or supervise, somebody who is not going to give a hundred percent and do their part. P193.

On cross examination, Vega stated that he was only contacted to testify the week before the hearing but that he always thought it could be a possibility. P194. Vega stated that, in preparation for testifying, he met with the assistant attorney generals once, reviewed the complaint, policies, portions of the case file or administrative interview, and portions of the DII investigation. P194. Vega could not recall all the portions of the DII investigation that he reviewed but he recalled reading and reviewing the administrative interview of Winslow, as well as the interviews of Kromm, Windisch, and Trooper Frank. P194-195.

Vega testified that he was under the impression that Kromm made an EEO complaint and that after contacting EEO and deciding EEO was not the proper place to conduct an investigation, Kromm and Ross completed a CADMF, which then moved the investigation to DII for a disciplinary investigation. P195-196. Vega stated that, since EEO does not have any investigators, EEO will coordinate and work with DII to establish and guide the case with DII still following its procedures pursuant to PER-30. P197. Also, since EEO did not have any investigators to investigate the case, DII officers investigated, with the advice, counsel, guidance, and input of EEO. P197-198. However, the final report of the Winslow investigation was a DII report. P198.

Vega stated that he had an opportunity to review all the text messages there were available in this case and that Kromm was not disciplined for her texts, including the middle finger emoji and other statements, because there was no complaint filed to investigate Kromm. P198-199. Vega stated that they will not typically initiate a CADMF, and in this case going after Kromm with a CADMF would seem retaliatory since she is a victim that is claiming sexual harassment. P199.

Vega testified that in this case there were four interviews of witnesses conducted and then the interview of Winslow. P200. He said this case was presented to the Disciplinary Review Board (hereinafter "DRB"), which brings forth cases that would possibly exceed 31 days or 31 days or more of discipline based on the conduct of the officer. P201. He said the DRB process involves three steps, first the DII case agent will present the case to the board members, additionally a supervisor of the subject officer will give a statement to the board, and then finally the officer himself will address the board. P202. The DII case agent summarizes the charges for the colonels. P202. Vega reviewed Winslow's Administrative Interview and was aware that Winslow mentioned several times the names of other officers who were at Pitch that evening, and that Winslow and counsel requested these individuals be interviewed. P202. Vega did not recall

if, when Alger presented the DRB with the summary of the case, whether she informed the board that only four people and Winslow had been interviewed. P203. Additionally, Vega did not recall whether Alger advised the DRB that Winslow asked that five people be interviewed and DII had refused to interview those people. P203.

Vega testified that he had no direct knowledge of the negotiations that went on between the lodge and the ISP in regards to the disciplinary matrix. P205. In addition, Vega stated he did not know if the Merit Board signed off on the disciplinary matrix. P206.

Vega reviewed the summary of Kromm's interview and he agreed that she became upset during the interview and left when they started to ask about the text messages but then came back after speaking with Alger in the stairwell. P206-207. Vega stated that he remembered reviewing in the report that the agents agreed not to discuss the text messages with Kromm when she returned to the interview. P208. Vega stated that, in his opinion, it is typically not proper for a person who is being interviewed to be able to dictate what questions can be asked of him or her but that in this case they were dealing with someone who was potentially a victim or was a victim. P208. He said the text messages had relevancy. P208.

Vega, who was not present at Pitch the night of the incident, testified to his understanding of the events that occurred, which included: Kromm, Winslow, Windisch, Frank, and possibly Denault all around the Pitch table; Kromm and Winslow having a conversation; and Windisch observing Winslow reaching up and grabbing the breast of Kromm. P208-210. Vega stated he noticed the inconsistencies in Kromm and Windisch's stories as to which breast was grabbed but he did not find that unusual because in the heat of the moment, or during a stressful situation, he can see inconsistencies happening, but the fact that her breast was touched is what matters, not which one. P210. Vega was aware that Winslow had been buying beers for people and delivering

the beers to the table and could have possibly brushed up against Kromm; but Vega stated that brushing against somebody's breast and physically grabbing a breast are two different things, and there is a witness (Windisch who testified he only had two beers the entire night) who stated he observed the grabbing motion of the breast not just a brushing up against the breast. P211.

Vega testified that he recalled Kromm indicating in the DII investigation that she did not see Winslow stick his tongue in the beer bottle but he could not recall whether she told DII investigators whether she had heard the statement about it tasting "like bitch." P212-213. Vega stated that a CADMF is something that is signed under penalty of perjury. P212.

Vega testified the DII does not determine guilt in a case, they just determine if there is substantial evidence to prove or disprove the charge and send that up to legal and then the Merit Board would make the determination of guilt and impose discipline. P213. Vega recalled attending the promotion interview of Winslow for the position of captain, and recalled that Major Lone may have been present at the interview but Vega did not recall telling Major Lone that Winslow would not be promoted to captain because DII found him guilty of certain charges. P214. At the captain's interview, Vega did not recall Winslow's DII case or discipline being discussed; but, Vega recalled discussing the fact that there was inappropriate conduct on the part of Winslow. P216. In regards to discussing the inappropriate conduct, Vega stated that discussing that would be no different than discussing evaluations during part three evaluations where you discuss the conduct of an employee during the course of their annual evaluation period. P216-217. However, Vega testified that the reason Winslow did not get promoted was not because someone within the department had determined that he was guilty of inappropriate conduct prior to the time a Merit Board complaint was filed and prior to the time of the Merit Board decision. P217.

As far as the promotion process, Vega testified that he did not know why Winslow was not promoted and that the rating was just one component; and an individual (Winslow in this case) may have a very high rating (even the highest in the state) and may still not be promoted if other individuals in the pool were highly rated because the interview process was just one step in the process for promotion as well. P218-219. Vega also testified that he does not know the differences between the ISP policies concerning sexual harassment and federal or state laws on the same. P219. Additionally, Vega stated that he does not know the standard for sexual harassment under federal or state law, but he had heard the terms severe or pervasive. P219-220. Vega did not know if a subjective standard is used either. P220. Vega agreed that there is a difference based upon the policy between harassing conduct and actual harassment. P221-222. Vega stated he did not know if the department believed that for harassment to occur federal law would apply. P222.

Vega testified that PER-32 addresses workplace but when it refers to supervisors and managers, it does not specifically state that it is the officer at issue's supervisor or manager. P223. In Vega's opinion, the use of the word supervisor and manager is all encompassing, it's supervisors and managers in general. P223. Vega stated that none of the conduct occurred at a facility in a workplace and that everyone was off duty in a bar at the time of the alleged conduct. P223. Additionally, Vega testified that he did not believe Winslow was nor had ever been Kromm's supervisor and in Winslow's current role he is not involved in Kromm's ratings or her chance of promotion. P223-224. Vega was not aware that a temporary duty position in Crime Pat. was created for Kromm but he was not certain where Crime Pat would take an investigator. P224.

Vega testified that the rule regarding use of department equipment is a complicated one by definition but that the rule does state "officers will utilize department equipment." P225. At the time of the incident, Winslow was the director of several MEG units, and Vega was aware that,

under Illinois law, MEG units are stand-alone drug units insofar as they have a board. P225-226. However, Vega stated he does not know enough about MEG units to know whether a unit was a stand-alone drug agency by statute. P226. Vega was aware that the Quad City MEG Unit purchased its own equipment and a telephone purchased by Quad City MEG was used by Winslow. P226. But, Vega stated that it was not true that the phone purchased for Winslow was not inventoried by the ISP; however, Vega did not believe that the ISP paid for the phone or paid the phone bill. P226-227. Vega testified that the applications that Winslow would have used during the course of business would have been ISP applications on the phone and that when Winslow received a phone it would be turned over to ISP IT at some point to have Lotus notes and some other applications installed. P227. Vega stated “[a] phone used for ISP business and insofar as it’s used for ISP business in addition to the MEG unit business, then it is department and there is a correlation to the department.” P227. Vega did not know if ISP apps are placed on all MEG unit phones and did not know if the apps were required to be on Winslow’s phone. P227-228. Vega testified that he does not know enough about the MEG units to state what his understanding of the law to be concerning the relationship between ISP and MEG units. P228.

In regards to Count V of the Complaint, discrediting the integrity of the department, Vega testified that he was not aware of any newspaper or magazine articles or television coverage of the alleged conduct. P228. Vega stated that he would have to speculate who all knew of the alleged conduct prior to the investigation would be Windisch, Kromm, Denault, and perhaps Franks. P229. Vega testified that he was unaware of Kromm being involved in an altercation, after the alleged occurrence with Winslow, with a Rock Island police officer. P229.

On redirect examination, Vega testified that, in certain respects, Winslow, as a lieutenant, represents the ISP even when he is outside the workplace. P230. Vega stated that when you attend

an event and nobody knows who you are that is one thing, but when people know who you are and know what your rank is, know who you are affiliated with, what your position is and what that position entails, then it could absolutely affect the workplace. P230. Vega went further and stated that when an occurrence is away from a facility it has to be looked at from the victim's perspective, whether or not that action or that conduct goes beyond the physical location and follows the victim to the actual workplace. P231. Vega also stated that he has very little familiarity with FOIA laws and that under the definition of harassing conduct, there is no indication that the conduct has to take place in the workplace. P231.

On recross examination, Vega stated that he did not personally recall having any discussions with EEO command personnel concerning the Winslow investigation but he believed there were conversations between the lieutenant and captain and EEO. P234. Vega stated that he knows there were discussions between EEO and DII personnel that would have resulted in the five individuals, the ones Winslow demanded be interviewed, not being interviewed, but Vega was not aware of the reasons why. P235. Vega testified that he believed these conversations took place between Lieutenant Casey Farrow and the lieutenant in EEO. P235.

Vega requested to clarify an earlier statement regarding the captain position interview. P235-236. Vega stated that he did not know if they considered discipline at all but they were looking at the conduct itself. P236. Vega stated that Winslow had stated in his Administrative Interview that he could not recall sending the text message from him to Kromm regarding getting her ass there or he'll spank it but it did come from his phone so he must have sent it. P236-237.

B. Respondent's Case in Chief

SERGEANT MATTHEW BARBER

Sergeant Matthew Barber ("Barber") has been employed by ISP for six and a half years and had been assigned to the DII since June 2015. P238. As a Sergeant with DII, Barber investigates acts or alleged allegations of crime under the governor's office. P239. During the Winslow investigation, Barber was the assigned case agent. P239.

Barber stated that in DII cases, they interview the complainant, and get a list of people to interview within the case from EEO if there are EEO issues. He said they confer with EEO to make sure they are staying within the bounds of the EEO regulations. P240. Barber stated he was aware that the Winslow investigation started as an EEO case but since EEO did not conduct investigations, and since a CADMF was filled out, DII did the investigation. P240-241. Barber stated that the CADMF was signed by Kromm after being filled out by the EEO officer, Ross. According to Barber, an EEO officer filling out the complaint is not unheard of and he did not know the percentage of times when the witness fills it out versus when an EEO officer fills it out. He says there is a section of the CADMF that states it is done under penalty of perjury. P241-242. Barber testified that upon his review of the CADMF, Kromm's statement on the form indicated that she witnessed Winslow stick his tongue in the beer bottle and making the comment "that's what bitch tastes like." Based on Barber's interview of Kromm, it was not true that she witnessed him sticking his tongue in the bottle. P243. (Petitioner's Exhibit 3).

When a CADMF is filed it goes to DII and DII determines whether the case should be kicked back to the district for investigation or whether DII will handle the investigation itself, and in this case, it was determined that Barber and Alger, both with DII, would handle the investigation since they were next up on the list. P244. As part of the investigation, Alger and Barber

interviewed Kromm, Denault, Frank and Windisch, and completed the administrative interview of Winslow. P244-245. Additionally, northern command interviewed McGreal and Barber called Brent McCoy, the owner of Pitch. P244-245. Barber testified that when DII conducts an administrative interview they always have questions written out to help guide the interview, and when they are not the ones conducting the interview they will write out questions as a baseline for the interview of the witnesses. P245. In this case, Barber wrote out the questions to be used for McGreal and Barber testified that a standard question that they ask in these interviews is whether the interviewee is "aware of any witnesses who we should talk to". P246. (Respondent's Exhibit 3) Barber stated they ask this question even of someone who did not witness the alleged incident because they may know someone who did witness it, and in this case McGreal did not have any names to give DII. P247-248.

Barber conducted the interview with Kromm on May 4, 2017, after the CADMF was filed. P248-249. All of the interviews completed in this case were videotaped and the summaries that were completed were of the actual recording, not just a summary of the notes. P249. Barber testified that when they interviewed Kromm she stated that she was at the table with her arms leaning on the table and Winslow came up underneath her, touched her right breast and squeezed her left breast and then came back. P250. But when Windisch was interviewed he stated he saw Winslow grab Kromm's right breast and squeeze it a couple of times and Windisch also stated in his interview that he had been watching people perform karaoke and when he turned back toward Kromm, Kromm and Winslow were standing shoulder to shoulder talking before the incident occurred. P250-251.

Barber testified that during Kromm's interview they asked her if she had a relationship with anybody within her task force or within Winslow's task force and she answered no. P251-

252. Barber stated that during Kromm's interview he asked her if she had any type of prior relationship with Winslow and she stated that they had met three years prior. P252. During her victim interview, Kromm became upset when Barber began to ask her about the text messages and she left the interview at that time. He said she did not need permission to leave the interview. P253-254, 258. Kromm eventually came back into the interview room and indicated that she wanted someone else to do the interview and then she left again, but Alger met Kromm at the bottom of the stairs and the two talked and Kromm decided to come back in shortly thereafter. P258-259. Barber testified that once Kromm came back into the interview they did not question her any further regarding the text messages because they already the messages. P259. Kromm let Barber look at her phone. P254. Kromm had taken screen shots of the text messages and sent them to Barber and Alger even though they had not requested her phone. P254. Barber and Alger did request Winslow turn over his phone to them as part of his administrative interview but he stated that he had recently got a new phone and the old phone had been replaced. P254. Barber testified that they had received a letter from Winslow's counsel that Winslow's phone had been disposed of three days before his notification of allegations and request to secure counsel for his administrative interview. P255-256. (Respondent's Exhibit 4) Barber stated that they did not request Kromm's phone because after conferring with EEO, it was decided that the only relevant times of that evening was the grabbing of the breast, Kromm's behavior before the grab, her behavior when it happened, and her reaction immediately afterwards. P256.

Barber explained that since this case started as an EEO complaint and since EEO does not have an investigative unit, DII investigates on EEO's behalf which is why they confer with EEO throughout the process to ensure they are standing on the guidance of EEO. P257. Barber testified that he did not have any further conversation with Kromm regarding the text messages because

Kromm told Alger that she would not answer any questions pertaining to the text messages. P260. Barber testified that he felt like he was revictimizing Kromm when asking her about the text messages. P259, 262.

Barber stated that all of the information DII had at the time of Kromm's interview showed that she was the victim but Kromm was the first interview conducted since she was the victim/complainant. P263. Barber testified that during the interview they learned that Kromm had not written the CADMF but that Ross had written it and Kromm signed it confirming with EEO that the information was true to her knowledge. P264. Winslow, as the subject of the administrative interview, would have been required to answer questions pertaining to the interview and he would not be allowed to say he did not want to talk about something. P265. Barber testified that during a DII investigation, the complaining witness has the burden to prove the allegations as true. P265.

Barber and Alger were both present during Winslow's administrative interview but Barber, as the case agent, asked most of the questions. P266-267. During Winslow's interview he gave Alger and Barber names of some people that were present at Pitch when the allegations allegedly occurred, specifically the names of two officers that were seated at the table where Kromm was seated. P267. (Respondent's Exhibit 5). Barber discussed the list with his command, Lieutenant Casey Farrow, who asked if any of the witnesses saw the breast being grabbed or how Kromm was acting before, during, or after it happened. P269. Barber testified that no one told them not to interview the individuals whose names were provided by Winslow but it was in partnership with EEO that the decision was made not to interview those officers. P269-270. Barber stated that after conducting the interviews with Windisch, Frank, Kromm, and Denault, it was determined that everyone besides Windisch was looking away and as a result there was not need to interview

the witnesses provided by Winslow. P270-271. Barber testified that a witness's level of intoxication can play a part of how they remember events happening but, in this case, even though Kromm repeatedly told DII during the investigation that she was so intoxicated that she could not recall many of the occurrences, Kromm was able to give the details of her breast being grabbed including her positioning at the table. P272.

On cross examination, Barber stated there are differences between an administrative interview and a regular interview conducted during an investigation. He said during an administrative interview, the trooper has the right to have counsel present. During a regular interview, troopers do not have a right to have counsel present. During an administrative interview, troopers are told their rights prior to the start of the interview and that they do not have a right to remain silent and they have an obligation to truthfully answer their questions. P274. During a regular interview, those rights are not read to a witness. P274. Also, during an administrative interview they would be instructed that if they refuse to answer a question they could be ordered by a supervisor to answer that question, which is also not an instruction in a regular interview. P274. Barber stated that Kromm provided the text messages of her own volition. P274.

On redirect examination, Barber testified that did not know if a witness has to cooperate with the investigation during a witness interview, but they should. P277. Barber stated that Windisch, McGreal, and Denault had different roles within the investigation than Winslow and Kromm. P277.

MASTER SERGEANT ELLIET ALGER

Master Sergeant Elliot Alger ("Alger") has been employed by the ISP for approximately 14 years and, at the time of the hearing, was assigned to DII. P288. Alger joined DII in November of 2009 as an agent, became a Sergeant in 2012 and then, in 2018, was promoted to Master

Sergeant. P288. Alger was a Sergeant at the time of Winslow's investigation and within that investigation Alger assisted the case agent, Barber, by sitting second chair during the interviews. P289.

Alger testified that she prepared a case briefing, Respondent's Exhibit 6, for her presentation to the disciplinary review board. P289-290. Alger attended the interview of Kromm on May 4, 2017. P291. During the interview, Alger recalled that Kromm had stated that she could not remember the conversation that she had with Winslow at Pitch prior to the alleged incident because of her level of intoxication. P291. Alger testified that, during her interview, Kromm said she did not see Winslow spit into the beer bottle or put his tongue on the beer bottle. P291. Alger remembered Kromm saying she heard Winslow say something. P292. She said Kromm was later advised by Windisch after the incident allegedly occurred. P291-292. Alger stated that she did not believe there was any discrepancy as to which breast of Kromm was allegedly grabbed by Winslow because, as Kromm stated, he reached under her right hand, under her right breast, grazed over the right breast and then squeezed the left, and then came back through. P292. She said Windisch reported Kromm's right breast being squeezed by Winslow. P293. (Kromm said the left breast and Windisch said the right breast). P293. Alger testified to Kromm stating she was sitting at a table at the time of the breast contact. P293. She testified to Windisch reporting that Winslow and Kromm were standing shoulder to shoulder. P293. Alger stated that she believed that Windisch, Frank, and Denault were seated at that table at the time of the incident. P295. Alger did not recall Winslow stating that two of the officers on the list that he provided DII as part of the investigation (Respondent's Exhibit 5) were seated at the table, just that they were at Pitch that evening. P296-297. Alger stated to her recollection Winslow did not recall who was seated at the

table and that during his interview he said it was possible that he might have grabbed her breast. P297.

Alger testified that Kromm was interviewed based on her EEO complaint and that the interviews were conducted by DII with the supervision of EEO because EEO did not do their own investigations at that time. P298. Alger stated that once the CADMF was filed, different policies applied and those policies involve an officer being served a written charge with would indicate the officers right to have counsel at the interview. P299. Alger testified that the reason five witnesses identified by Winslow were not interviewed was because Winslow was not able to substantiate that the witnesses had actually seen the alleged incident. P300. Alger and Barber relayed that fact to their command who then went to EEO and had a conversation with them about how to proceed. P299-300. Alger testified that Lieutenant Casey Farrell, after speaking with EEO Lieutenant Kristy White (hereinafter "White"), made the decision that the five witnesses that Winslow wanted interviewed would not be interviewed. P300-301.

Alger stated that the investigation was being conducted on behalf of EEO P301. She said that her understanding was that EEO rules and regulations were different in that if someone did not actually witness the alleged incident and there is not evidence to support direct observation, then only the people that actually saw or heard the alleged incident are interviewed. P301-302. Alger testified that a witness's level of intoxication could affect that person's ability to recall things. She said that Kromm had stated in her interview that she could not recall the conversation between Winslow and herself. P302. Alger stated that she and Barber were directed by Lt. Farrell that the witnesses that Winslow identified had no bearing on how Kromm felt at the time her breast was grabbed. P302-303. Alger stated that White was involved in the investigation throughout and

Alger was not aware that White had sent a letter to Kromm indicating that the case was going to be transferred to DII for the investigation. P304.

Alger testified that the interview of Kromm was tape recorded. She said at some point in time Kromm provided text messages, that Kromm used the text messages to reference when she had arrived at Pitch and, when questioned about the text messages in the interview, Kromm became upset and stormed out of the room crying. P304-305. Alger stated that she went after Kromm and located her in the bottom of the stairwell of the LaSalle Library, and then Alger had a conversation with Kromm. P305. During this conversation, Kromm told Alger that she was going to find someone else to handle this and that she knew how this was going to play out. P305. According to Alger, Kromm stated that she felt everyone would think she was just after a promotion and that nothing would happen to Winslow; Alger then explained to Kromm that she needed to calm down and that they would not question her further that day about the text messages. P306. Alger testified that it was her intention that, after conferring with EEO, she and Barber would revisit the text messages with Kromm in a later interview; however, Kromm was not interviewed on any further date. P306-307. Alger testified that she did have a chance to review the text messages. P307. (Petitioner's Exhibit 2).

Alger stated that she was able to question Kromm about some of the text messages before Kromm left the interview. P307. Alger testified that Barber was reading the text messages aloud and he read the message that stated "why wouldn't you love me" and Kromm responded that she did even know what that meant. P308.

Alger testified that the purpose of presenting the case to the disciplinary review board was for the board to look at the case and to make a recommendation to the Director. P309. Alger stated that the case briefing that she prepared (Respondent's Exhibit 6) is only a short summary of

the entire case, not the entire case in and of itself, and is used as a guide. P310. Alger testified that within the case briefing to DRB, she does not mention Winslow requesting the five witnesses to be interviewed or anything about the witnesses. P311-312. Alger stated that she was never made aware of an altercation between Kromm and Holmes in Pitch. P312.

On cross examination, Alger testified that she believed the case briefing that she utilized (Respondent's Exhibit 6) was just a draft and that she could have added more information than what was actually in the exhibit. P313. Alger testified that she was present when Winslow was interviewed, reviewed the transcripts of the interview and reviewed the audio before testifying. She said she still could not recall Winslow ever mentioning two people were seated at the table when the incident took place and would be able to either corroborate or deny a grabbing of Kromm's breast. P313-314. Alger testified that Winslow, throughout his interview, said multiple times that he did not deny grabbing Kromm's breast and in fact on one occasion he admitted it was possible that he did grab it. P314. Alger testified that, pursuant to PER 30, DII collaborates with EEO in investigations. (Petitioner's Exhibit 1) P315-316.

On redirect examination, Alger stated that because EEO did not have any investigators, it would have been impossible for them to conduct the investigation by themselves. P316-317. Alger testified that now, and at the time in April 2017 when the case developed, that whenever a case could involve potential discipline against an officer, DII would do the investigation. P317.

QUAD CITY MEG OFFICER MICHAEL MERRITT

Quad City Meg Officer Michael Merritt (hereinafter "Merritt") had been employed by the ISP for seven years at the time of the hearing and was assigned to the covert squad of the Quad City MEG in Moline. P319-320. Merritt has known Winslow for a number of years and Winslow was the top line supervisor for the Quad City MEG Unit that Merritt was assigned to. P321.

Merritt described Winslow as a good supervisor who is very knowledgeable about his job and what the drug units need to operate on a day-to-day basis. P321. Merritt had been provided a cellular phone by the Quad City MEG that, according to Merritt, was not an ISP phone and gets replaced from time to time. P322.

Merritt attended the IDEOA conference in Peoria in April of 2017. P322-323. Merritt was present in Winslow's suite when Kromm was also in the suite and Merritt's impression of Kromm, whom he did not know prior to the conference, was that she was loud, acted intoxicated, and was acting like she wanted people to look at her. P326. In Merritt's opinion Kromm was acting like an idiot because everyone was staring at her as she was being loud and obnoxious. P326. He said other departments were present and he thought her actions made their group look stupid. P326.

Merritt was also present at Pitch later that evening. P327. Merritt was not ever seated at the tables by the karaoke area but after getting his drink from the bar, went and sat over on seats to the side of the karaoke area (to the right if one is looking at the karaoke stage). P329. Merritt said the tables were maybe 10 feet from the karaoke microphone and speaker. Merritt did not see Kromm or Winslow while he was at Pitch that evening. P329-330. Merritt did see Holmes at Pitch walking around. P332. Merritt stated that he left Pitch around 1:00 a.m. to 2:00 a.m. P332.

On cross examination, Merritt testified that he uses his MEG phone for MEG work. He said that everyone who contacted him for ISP contacts him on his personal phone. P332-333. Merritt stated that he does not know Kromm personally and has never met her, socialized with her, had a conversation with her, or drank with her. P333-334. Merritt stated that he does not know how Kromm acts when she's had a drink versus when she has not had a drink, but as a cop for twenty years, he's done hundreds of DUIs and hundreds of field sobriety exercises and would say that Kromm was hammered, no questions asked. P334.

OFFICER JUSTIN HOLMES

Holmes has been an officer with the City of Rock Island, Illinois for more than eight years. From February 2016 – January 2018 he was assigned to the Quad City MEG on the covert side doing all the hand-to-hand drug buys. P335-336. While working for Quad City MEG, Holmes was provided a phone that he believed was paid for by the MEG. P337. Holmes testified that he has known Winslow for a number of years and at one point in time Winslow was the Lieutenant of different MEGs, including the Quad City MEG in which Holmes was assigned. P338. Holmes stated that Winslow was very knowledgeable on the drug side of things and was probably one of the best that Holmes had every talked to. P338.

Holmes attended the IDEOA conference in April 2017 and met Kromm in Winslow's suite. P339. The first interaction between the two was very brief, just pretty much an introduction. P339-340. The next interaction between Holmes and Kromm was at Pitch. P340. Holmes did not know what time he arrived at Pitch but he recalled getting a drink when he arrived and then walking around mingling. P340-341. Holmes described Pitch as a small bar. He could not remember how many tables were in the bar but he did not think there were many. P341-342. Holmes stated that the tables were round but could not remember how many seats were at each table. P342. Holmes testified that the bar was crowded and people were shoulder to shoulder. P342-343.

Holmes eventually sat down at a table but could not recall who was seated at the table when he first went and sat down. P344. Holmes testified that, while he was seated at the table, Winslow was buying rounds for people and after buying the drink Winslow would just walk up and hand that person the drink. P344-345. Holmes stated that Kromm arrived to the bar at some point that evening alone and he recalled watching her walk through the door, and after she came in the door she walked directly towards him and struck up a conversation with him, before eventually taking

a seat at the table. P345. Holmes testified that Kromm was seated directly to his left and Patrick Mesick was also seated at the table across from Kromm. P346. After Kromm sat next to Holmes at the table the whole table had conversations. P347. Holmes testified that while he was seated at the table with Kromm she began playing with his hair, long and curly at the time, his full beard, and playing with his chest. P347-348. Holmes stated they were all, including Kromm, intoxicated at this time. P348.

Holmes testified that while he was seated at the table he began eating a beef sandwich that was on top of Kromm's purse. P349. Holmes stated that he and Kromm were talking about the sandwich and somehow, he started eating it, and he did not recall her objecting to his eating of the sandwich. P349. Holmes stated that he and Kromm had an altercation sometime after the beef sandwich, during which Kromm was yelling. P350-351. Holmes testified that Winslow and Detective Ann Sievert were up at the bar and then came over to where Holmes and Kromm were at and stepped in and separated Holmes and Kromm. P351-352, 355. Holmes and Sievert then departed Pitch and went to the bar next door, where they remained for quite a while without going back to Pitch. P352, 355, 361.

Holmes testified that he never saw Winslow seated at the table with Kromm and that throughout the evening Kromm would get up and move around with Holmes because, in Holmes' opinion, Kromm liked his company. P352-353. Holmes stated that Kromm licked his drink on several occasions. P354-355. Holmes testified that when he was next to Kromm he did not see Winslow grab her breast and Kromm never mentioned to him her breast having been grabbed that evening. P355.

Holmes stated that he has known Winslow for a few years and has socialized with him, has attended police functions with him, and has drank with him. P356-357. Holmes testified that in

all of those interactions with Holmes, he has never seen him act in an inappropriate sexual manner towards women and in his opinion the allegations in this case were out of character for Winslow. P357-358.

On cross examination, Holmes testified that he was not next to Kromm the entire night at Pitch nor was he staring at her breast the entire night. P359-360. Holmes stated that he could not say for certain that Winslow never grabbed Kromm's breast. P360. Holmes stated that he was intoxicated that evening and had no clue how many drinks he had that evening, nor did he know how many drinks he had prior to Kromm arriving at Pitch. P360-361. Holmes testified that he had no clue what time Kromm arrived at Pitch and had no clue what time the altercation with Kromm over the beef sandwich took place, but he thought he left the bar a couple hours before it closed since he went to the bar next door for a good amount of time. P361.

OFFICER PATRICK MESICK

Officer Patrick Mesick ("Mesick") has been an officer with the Bettendorf, Iowa, Police Department since December 2012. From January 2015 to July 2017, Mesick was assigned to work narcotics cases with the Quad City MEG Unit. P362-363. During that time, Mesick was assigned a telephone that was purchased by the Quad City MEG Unit. P363. Mesick was not certain whether Quad City MEG or ISP paid for the phone. P363. Mesick knew Winslow from working with the MEG Unit. Winslow was his director/supervisor when he started with the Unit. Mesick had a working relationship with Winslow. P364. Mesick knew Winslow to be a veteran source for other officers if they had questions regarding their duties as a drug enforcement officer. Mesick described Winslow as very knowledgeable, very approachable, and as a manager who kept his guys in line. P364.

Mesick attended the IDEOA conference in Peoria. P365. While at the conference on April 19, 2017, Mesick went to Winslow's suite around 2:00 p.m., and while in the suite Mesick saw Kromm arrive with Winslow who introduced Kromm to others. P365-366. Mesick stated that Kromm was the only female in the suite. He said she had a lot of eyes on her and she seemed to know that she had some attention. P366. Kromm started offering to pour shots and drinks for people and was taking shots in the room. P366. Mesick stated that Kromm was completely sober when she arrived at the suite and he observed her have two to three shots but was not sure if she had any more than that. P366.

After leaving Winslow's suite, Mesick went to Pitch. P367. Mesick testified that he was seated at a table most of the night while at Pitch. P367. Mesick stated that the bar was packed, with most of the police officers standing shoulder to shoulder. P368. While at the table, Mesick testified that Winslow, Holmes, Kromm, and Jason Happach were also at the table, as well as Sievert for a little while. P368-369. Additionally, Mesick stated a few other ISP guys that he had met that night were there, but he could not remember their names. P369. Mesick stated that Kromm and Holmes were next to each other most of the night and described their interactions as flirtatious with Kromm's hand on Holmes' shoulder at times. P369-370. Mesick did not witness any altercation between Kromm and Holmes. P370.

Mesick testified that while he was seated across from Kromm, everyone was taking turns buying drinks for each other and Winslow had gone up to buy a round of drinks for the table and after Winslow sat the drink down on the table, Kromm stuck her finger in Mesick's drink. P370. Because of this, Mesick made Kromm go buy him a new drink and that was the extent of the conversation he had with her. P370-371. Mesick stated that he, Kromm, Winslow, and Holmes were all sitting around talking. P371. Mesick testified that Winslow bought two rounds of drinks,

that he recalled, and delivered the rounds to the table. P371. He said the table was crowded when Winslow delivered drinks. When Winslow delivered the drinks to the table, Mesick stated, because of the crowd, either someone would move aside and Winslow would set the drink down, or people would step aside and then pass the drinks down. P372.

Mesick stated that while he was seated at the table he never heard Kromm complain about any conduct of Winslow and he never witnessed anything inappropriate between the two. P372. Mesick testified that he did not see Winslow grab Kromm's breast. P372-373. Mesick stated that he had lunch with Winslow in the past. P373. Mesick testified that he had drinks with Winslow at times prior to the conference. Based on his knowledge of Winslow, both professionally and personally, he believed the allegation of Winslow grabbing Kromm's breast was out of character for Winslow because he always led by example and with the Quad City MEG guys around, he would not do something like that. P373-374. Mesick stated that he never heard any allegations that evening that Winslow grabbed Kromm's breast. P374-375. Mesick stated that he could tell that Kromm had been drinking (a level of intoxication), but she was not falling on the ground drunk. P375.

On cross examination, Mesick testified that his eyes were not on Kromm's breast the entire night. He said he could not say for certain that Winslow did not grab Kromm's breast at some point in the evening but he never saw it. P376-377.

MASTER SERGEANT JAMES RIECK

Master Sergeant James Rieck (hereinafter "Rieck") has been employed by the ISP since June 2000 and is currently the Director of the Quad City MEG, having joined the Quad City MEG Unit after leaving S.W.A.T. in 2014. P377-378. Rieck stated that the Quad City MEG Unit provides officers with phones that are paid for out of the unit's budget and that these phones are

not ISP equipment. P378-379. Rieck states that the Quad City MEG Unit is a stand-alone unit that has its own budget and is comprised of officers from other agencies with one other State Trooper. He said the unit runs its own day-to-day operations, and has its own vehicles. P379. The unit is mandated under Illinois law to be supervised by an ISP Officer as the Director. P379. Rieck stated that he would disagree with a statement that the phones provided to the MEG Unit are ISP equipment. P380.

As Director of the Quad City MEG, Rieck oversees the day-to-day operations, including: maintaining the budget, making sure the unit stays in line, applying for grants, and just basically keeping the doors open. P380. Rieck has extensive law enforcement experience that includes being an undercover officer and working as a drug agent with both the Black Hawk Task Force and the Quad City MEG. P381. When Rieck first arrived at the Quad City MEG as a drug agent, Winslow was the Director. P381. Rieck estimated that he had known Winslow since around 2004 and then, beginning in 2014, he worked with Winslow day-to-day. P381. Rieck described Winslow as "one of the best." He said Winslow was very knowledgeable and that a lot of people in the State of Illinois would go to Winslow with questions about investigations and the drug business in general since Winslow had been in the drug business for a long time and had lots of knowledge of the ins and outs of the business. P381-382.

Rieck attended the IDEOA Conference in April 2017. He went to the happy hour at the hotel on April 19, 2017, but did not go to Winslow's suite. P382. Rieck did not know Kromm prior to that day. Rieck first became aware of Kromm at the happy hour in the hotel hospitality room when he approached her regarding a State Police canine that was loose in the hotel. P383. Rieck knew that Kromm was a dog handler based on her wearing the Class B uniform that handlers wear. P383. Rieck testified that Kromm handled the situation and returned the dog to the handler.

P383-384. At the time Kromm handled this situation, Rieck was not able to notice anything out of the ordinary with her behavior other than to say that she was intoxicated. P384.

Rieck was also at Pitch that evening. P384. Rieck testified that while at Pitch he mostly sat with his back to the wall so that he could have a good vantage point to watch the guys have a good time. P385. Rieck stated that Todd Noe, the Deputy Director of MEG, was seated at the table with him, as well as Holmes who came over at one point, and sat, in addition to others who would just come and go. P386. While Holmes was at the table with Rieck, Rieck observed Kromm come up to the table and grab Holmes' drink, pick it up and put her tongue in the drink while staring at Holmes, and then she sat the drink down on the table before walking away without saying a word. P386-387. Rieck stated that he was not able to arrive at an opinion regarding Kromm's level of intoxication because he was focused on Holmes since he was not aware that Kromm and Holmes knew each other. P387-388. He said he was shocked by Kromm's behavior. P387.

Rieck again stated he did not really get to know Winslow until they worked together on a day-to-day basis in 2014. P388. During the time he has known Winslow, Rieck had an opportunity to socialize with him during work related events, and based on these limited interactions with Winslow, Rieck testified that he has never seen Winslow act or conduct himself in the manner that is alleged. P388-390. Rieck testified that he was probably at Pitch for no more than a couple of hours that night and he did not recall seeing any interaction between Winslow and Kromm. P390-391. Rieck did not remember seeing Winslow at Pitch but he testified that he did not really pay much attention to the area that they had been at because he was more focused on the karaoke area. P391. Rieck testified that he first learned of allegations against Winslow several months after the event. P391.

CORPORAL ANN SIEVERT

Corporal Ann Sievert ("Sievert") has been a police officer for eleven years with the Davenport Police Department. Between 2010 and 2011 she did a six-month assignment with the Quad City MEG as a narcotics purchasing agent. P392-393. While with Quad City MEG, Winslow was Sievert's boss. She had known him for about ten years through law enforcement because her father, uncle, and her brother were police officers, and she has a lot of law enforcement friends through whom she has met Winslow. P393. While working with Quad City MEG in 2011, Sievert was provided a cell phone that she believed was either paid for by the MEG unit or by the ISP. P397. Sievert is aware of Winslow's reputation as a drug enforcement officer. P393-394. She stated that she has heard very good things, that he is very competent and works hard, and that when he became a supervisor, everyone that she knew has liked to work for him. P394. Sievert stated that while she was working at Quad City MEG she went to Winslow, because of his experience and success, to get advice but he was not her direct supervisor. P394.

Sievert testified that, in the ten years she has known Winslow, she has socialized with him and has gone out drinking with him to taverns and other social events a handful of times. P395. Sievert stated that she had recently seen Winslow at a St. Patrick's Day parade with his wife and they just had a quick interaction regarding how each was doing. P395. Sievert testified that during her interactions with Winslow he had never been sexually inappropriate with her. P395-396. Sievert stated that she was aware of the allegations in this case and she believed, based on her social and professional interactions with Winslow, that the allegations are out of character because whenever she has been in a social situation with Winslow, he had been nothing but respectful to her. P396-397.

Sievert attended the IDEOA conference in April 2017 in Peoria. P398. Sievert testified that she went to Winslow's suite on the first day of the conference. She arrived at the suite around 3:30 p.m. P398. Sievert testified that prior to April 19, 2017, she had never met Kromm. P398-399. While in Winslow's suite, Sievert observed Kromm but was not aware that it was Kromm until she became aware of matters underlying this case. P399. Sievert testified that, while in Winslow's suite, it appeared that Kromm got upset and left then came back. P399-400. Sievert was unable to determine Kromm's level of intoxication while in the suite. P400.

Sievert went to Pitch around 9:00 to 9:30 p.m. that evening, and upon arrival she stated that she drank some beers. P400-401. While at Pitch, Sievert stayed towards the bar because karaoke was not really her thing. P401. Sievert testified that she had been at Pitch a while before Kromm arrived and that she observed Kromm walk in with a couple of other people. P401-402. Sievert did not know how long she was at Pitch. While at Pitch, Sievert stated that she had a conversation with Winslow at the bar around an hour to an hour and a half after she arrived at the bar. She said the conversation lasted at least forty-five minutes and the conversation was about some marital issues that Winslow was having and he was upset about them. P403-404. Sievert stated that she could tell Winslow was intoxicated because he was not usually that emotional, but she was able to understand what he was saying and he appeared to be lucid. P404.

While Sievert and Winslow were talking at the bar, Sievert became aware of an altercation after Holmes came up to her in an upset way. P404-405. After Holmes came up to Sievert, she told Holmes that the two of them were going to leave the bar. Sievert testified that she did not have an interaction with Kromm after Holmes approached Sievert. P405. Sievert stated that she became aware that night that there had been an altercation between Holmes and Kromm at Pitch. P408-409. Sievert had no further interactions with Kromm while at the conference. P411.

MAJOR STEVE LOAN

Major Steve Loan (hereinafter "Loan") has been employed by ISP for twenty-four years and at the time of the hearing had been the Major for Region Two for nearly a year in a half. P412. Loan's duties as Major include administrative functions associated with running six districts and two investigative zones, including Quad City MEG, which Winslow was a part of, and District 17, which Kromm was assigned to at the time of the incident. P412-413. Loan testified that he knows Winslow. He said Winslow had no supervisory duties over Kromm, and had no way of affecting her ratings or promotions, or anything of that nature because she and Winslow were in separate divisions. P414.

Loan testified that, as a Major in Region Two, he is involved with promotions. In January of 2018 he was involved in the panel interview when Winslow applied for Captain. P414-417. Loan stated that during the panel interview, the investigation involving Kromm was discussed. He said not all panel members were aware of the investigation because of the investigation's confidentiality. P418-419. Loan testified that Colonel Simington and Vega laid out some of the allegations, and when some of the panel members inquired whether the case was done, Simington and Vega stated that there was a Merit Board hearing that was not yet complete but DII had sustained the allegations against Winslow. P419. Loan testified that after the panel conferred with legal, it was determined that they were not to pay attention to Giglio-related questions because they were not in play for their decision making. He said since DII had sustained the allegations against Winslow, they were to "take into account" his behavior with regards to the allegations against Winslow in their determination of whether Winslow was highly recommended for the promotion. P419-420.

Loan stated he has known Winslow for six years or so. P422. As a Major in Region Two, Loan stated that he was aware of Winslow's reputation and ability as a Drug Enforcement Officer, that Winslow was respected in the field of narcotics and was the President of the Narcotics Officers Association at one time. P422-423. During the course of knowing Winslow, Loan had socialized with Winslow at different conferences and in settings where alcohol was served. P424. Loan testified that during the times that he had been around Winslow, professionally and socially, he had never known Winslow to act inappropriately around females. P424-425. Loan testified that he was aware of the allegations in this case and that based on his knowledge of Winslow in professional and social situations, he believed the allegations to be out of character for Winslow. He had never observed Winslow act in the way alleged. He had never received any complaints against Winslow. P426.

Loan testified that during Kromm's time in District 17, he was aware of an instance when a non-factual statement was written on a department memorandum form. P430.

On cross examination, Loan stated Kromm had sent him a memo requesting a change in the time she had used when her partner had died and she was pregnant. P431-432. The memo contained information that Kromm was under the impression that she could take sick time for the time she had taken off. P432. However, in actuality, Kromm should have taken vacation time, so there was a misunderstanding as to the classification of the type of time she was allowed to take off. P432. The memo that Kromm wrote did not result in any discipline. P433.

On redirect examination, Loan stated the information that was not truthful in the memorandum was that Kromm stated that Captain Markowski of the 17th District had a conversation with Joe Moon, President of the FOP Lodge, and the two agreed that the time Kromm had taken when her partner died was allowed to be switched to sick time and she wanted to make

the switch. P433. Loan testified that there was no agreement between Markowski and Moon regarding switching time. The memo at issue was written in October 2017. P434.

COMMANDER RICHARD WILK

Commander Richard Wilk (hereinafter “Wilk”) has been employed with the ISP for more than thirty years and has been assigned to a number of different locations throughout his career before being made Investigations Commander and promoted to Captain in April 2016. P437-438. Beginning in January 2016, Wilk was the Zone Two and Zone Three Commander. P438. Wilk stated that he knows Winslow but had never worked side by side on a case with Winslow before he was made Commander in Zone Two. P438-439. When Wilk took over in Zone Two in January 2016, Winslow was the Zone Two Narcotics Lieutenant. P439.

Wilk stated that Winslow was considered a highly qualified drug enforcement officer. He said Winslow was very well-known and recognized at both the state and federal levels. P439. Wilk testified that Winslow taught classes and advised other police agencies around the country. He said Winslow helped develop a curriculum at an undercover school developed by the ISP, which, according to Wilk, is an excellent school and there are not many like it in the country. P440. He said Winslow is invited to teach at many levels. Wilk interacted with Winslow through IDEOA trainings, and from January 2016 until January 2018, Wilk was Winslow’s supervisor. P440-441. During this time Winslow was assigned as Drug Lieutenant for Zone Two. P441. As Winslow’s supervisor, Wilk’s prepared Winslow’s Promotional Skills Evaluation on April 28, 2017. Respondent’s Exhibit 7. P441, 443. Wilk’s testified that a Part Three Promotional Skills Evaluation is an evaluation of the skills demonstrated by the ratee over that time period. P442. A Part Three evaluation differs from a Part Two evaluation in that Part Two is just a check on how the person is doing throughout the year, with things to correct or improve; but the Part Three is

what is used for promotional purposes. P442-443. On the April 28, 2017 evaluation, Wilk rated Winslow a 79 out of a total 81 points and Wilk testified that he could not recall if that was the highest in the Zone or Region but it would have had to be close if it was not. P443.

In January 2018, when Winslow went through the promotional assessment, Wilk did not have any involvement. P444. On January 9, 2018, Wilk prepared a Part Two for Winslow. P444. In that evaluation, Wilk indicated that Winslow exceeded expectations in nine dimensions and met expectation in three dimensions. P444. Wilk testified that when he prepared the Part Three Promotional Skills Evaluation dated January 9, 2018, Winslow was assigned to Zone Two Narcotics as the Lieutenant, which was under his command. P446.

Wilk said that MEG Units are stand-alone and they are statutorily created with multiple units around the state. He said that they are governed by a policy board, not an advisory board, which creates and makes policy for that unit. P447. Wilk stated the ISP has a vote on the board but that it does not rule the board. P447. Wilk testified that the MEG Unit would purchase the phones for that unit, and the funds used would not be ISP funds. P447-448.

Wilk stated that he has known Winslow since the early 2000's or possibly earlier than that. P448-449. Wilk stated that he has attended department functions with Winslow. He has socialized minimally with Winslow. P449. Wilk testified that he was aware of the allegations in this case and, based on his social and professional interactions with Winslow, he found the allegation that Winslow grabbed Kromm's breast to be very out of character because he had never seen that behavior demonstrated by Winslow or heard anyone else say that behavior was in Winslow's character. P450-451.

On cross examination, Wilk testified that the MEG equipment would not have an ISP inventory number and would not have been paid for by the ISP. P451. Wilk stated that ISP officers

are assigned to MEG units but their salaries and overtime are paid by the State with no reimbursement from the MEG unit. P452.

VICTOR MARKOWSKI

Victor Markowski (hereinafter "Markowski") is a retired ISP Patrol Commander for District Seven and Seventeen. P455. Markowski retired from the ISP on October 31, 2017, after spending twenty plus years in various positions with the ISP. P453-455. Markowski is currently employed as a contractual employee for the Chicago High Intensity Drug Trafficking Area, a federal program under the Office of National Drug Control Policy. P453.

Markowski testified that he knows Winslow both professionally and personally having interacted with Winslow throughout their careers and through their involvements with IDEOA, and also having attended Winslow's daughter's wedding a few years back. P455-456. Markowski stated that he has socialized with Winslow on occasion. P455. Markowski had supervised the Quad City MEG Unit, overseeing the Narcotic Division of Zone Two, and during this time he supervised Winslow while Winslow held the rank of Master Sergeant. P456. Markowski prepared a Part Three Promotional Skills Evaluation for Winslow on May 28, 2014, in which he indicated at that time that Winslow was highly skilled in eight of the nine dimensions. P457. Respondent's Exhibit 7. Markowski could not recall if Winslow received his promotion to Lieutenant after this Part Three evaluation or after another evaluation. P457. At the time of completing the May 28, 2014 evaluation, Markowski was a Lieutenant assigned to Zone Two. P457-458.

Markowski testified that he was familiar with Winslow's reputation around the state and country as a Drug Enforcement Officer. P458. Markowski stated Winslow was highly respected and highly sought after for input and advice. P458. He said Winslow teaches and has presented at local and state levels, and testified before the Marijuana Committee in Illinois under the

Compassionate Care Act. P458. Markowski stated that he was Winslow's immediate supervisor while Winslow was running the Quad City MEG, which was the highest performing narcotic unit in Zone Two. He said he watched Winslow to make sure he did his case review, watched him operationally, and he always made a point to actually go out and watch Winslow and all his supervisors in action. P458-459. Markowski testified that the Quad City MEG Unit is a stand-alone unit that is statutorily created and that has its own originating reporting information (ORI), and their own policy board, and their own budget. P459-460. The Director, while credentialed by the ISP, actually reports to the policy board for the daily and long-term operations of the MEG. P460. Markowski stated that he was not sure who supplied phones to the Quad City MEG. P460-461.

Markowski stated that Kromm was assigned as a canine officer for District Seventeen when he was the Commander. P461. Markowski was aware that Kromm was put on a temporary duty assignment when he was leaving but he did not know where she was at exactly. P461-462. Markowski testified that Kromm left District Seventeen as the canine officer right when he left because he prepared the officer action report in the last few weeks he was working. P463-464.

LIEUTENANT KEVIN WINSLOW

Winslow has been employed by the ISP since 1999. He started as a trooper in District Seven. P465. In 2001 or 2002 he was moved to the drug interdiction unit. In 2004 he was moved to investigations, to do follow ups around the country for drug interdictions. P465. In 2005 he was transitioned to undercover work. He worked undercover for DEA, ATF, and in the Quad City Metropolitan Enforcement Group (MEG). In 2005 or 2006 he was transferred to work out of the Quad City BEG office as a special agent. Around 2007 or 2008 he was made an undercover supervisor. Around 2009 he began supervising a hotel/motel drug interdiction unit. From 2010 to

2015 he was director of the Quad City MEG. P466. In 2015 he was promoted to Narcotics lieutenant for Zone Two. As the Narcotics Lieutenant, Winslow oversees all the drug agencies within the 12 counties and three states. P466-467. Respondent's Exhibit 8 sets forth the units and employees for which Winslow was responsible. In 2017, Winslow was the newly elected President and 2017 Conference Coordinator for IDEOA. P468-469. Winslow testified that any police officer could attend the IDEOA conference (Respondent's Exhibit 9) as long as they paid the fee to attend. P471-472. Winslow recalled Kromm's spot at the conference being paid for by a Narcotics Unit. P471.

Winslow testified that the networking receptions that were listed in the training brochure (Respondent's Exhibit 9) were located in his suite, the conference coordinator's suite. P472. Winslow stated that normally the suite would be opened up at the conclusion of the main speaker, and it is a place for people to relax until the social hour starts. P472. Winslow stated his suite was actually opened up earlier for the 2017 conference because some of the attendees from Zone Two were unable to get into their rooms when they arrived so they stored their items in Winslow's suite. P472. On April 19, 2017, alcohol was provided by Winslow in his suite. P472-473.

Winslow stated that prior to the IDEOA conference he had met Kromm during a drug interdiction detail, sometime around then end of 2015, when she brought her canine to run around the car to alert. P473-474. During this interdiction, Winslow stated he exchanged phone numbers with Kromm because that was common to have different canine officer's numbers for support. P474. Between that interdiction and the conference on April 19, 2017, Winslow had no contact with Kromm. P474. In April 2017 Winslow was not Kromm's supervisor. They were in different investigative zones and he was in investigations and she was in patrol. P474-475. Winslow stated

that he does not attend any meetings, sit in on ratings, and has no influence over Kromm's ratings, promotional skills evaluations, or ability to be promoted or made a special agent. P475.

Winslow first saw Kromm on April 19, 2017 in the conference center. P475. After a speaker was winding down and he was walking out to go back to his hotel. P475. Kromm approached him, introduced herself, and asked "where is everything at." P475-476. Winslow stated that Kromm was inquiring into where everyone was going to drink. P476. Winslow told Kromm that he had people in his suite while they waited for the social hour to start and that she was more than welcome to come up there. Winslow said he kind of made a joke and said the suite was probably full of MEG guys so she should enter at her own peril. P476-477. At this time Winslow and Kromm both went to the hotel side and went to the suite together. P477. On their walk to the suite, Winslow stated that Kromm talked about recent promotions that she heard were rumored to occur, about getting promoted herself and her desire to be promoted. P480. Winslow testified that Kromm wanted to know how the process worked and he stated he gave her his standard answer of just keep working hard. P480. When they arrived at the suite at about 3:30 or 4, it was full of agents from the Quad Cities who were socializing and watching TV. P477-478.

When they first arrived at the suite, Winslow testified that Kromm was trying to get people to do shots and even poured a shot for Winslow, which he did not drink but gave to Brandon Kipke (phonetic), the guy sitting next to him. P477-478. Winslow stated Kromm made him a rum and coke that he drank. P478. Winslow stayed in the suite for around a half hour because he had to get back to the conference center to help get it set up for the social hour. P478. When Winslow left the suite, as far as he knew, Kromm was still in there. P478.

The IDEOA social hour lasted from 5:00 until around 8:30 that evening. P478-479. At the social hour there was food, alcohol, soda, and water provided. P479. Winslow does not recall

seeing Kromm at the event. There were 600 people at the conference. P479. Winslow said he left the social hour with some of the agents to wait for a shuttle, and as they were walking out he saw Kromm walking out with her group, at which time she asked Winslow's group where they were going and they said they were going to Pitch. P479-480, 484.

Winslow testified that he had between two or three beers at the social hour. P481. He said during the time in his suite and the social hour at the conference center (between 3:30 and 9:00) he had three to four drinks at the most. P481-482. Winslow stated that when he arrived at Pitch he was not intoxicated. P482. Winslow testified to his knowledge of the principles and figures concerning the elimination of alcohol from the body and that the body detoxing approximately one drink per hour depending on the absorption rate, and depending on how much the person ate and the person's size. P482-483. According to Winslow, this was his first time going to Pitch but the decision to go there was made by the guys from the unit because they like to go there every year and sing karaoke. P483. Winslow went to Pitch in the shuttle from the hotel with Mesick, Holmes, Rieck, Matt Brine, Matt Desmiter, and Adam Mosley. P483.

Winslow testified that he did not recall exchanging text messages with Kromm until he was at Pitch, but he acknowledged that the timestamp on the messages indicated they started at 7:14 p.m. P484. The message (Petitioner's Exhibit 2) that Winslow received from Kromm at 7:14 p.m. stated "why wouldn't you love me" and Winslow stated—just like he did in his administrative interview—that he just thought she was joking around. P484. Winslow stated that, in his opinion, the two kind of had a banter back and forth and he thought Kromm seemed like the type he could kid around with. P484-485.

Winslow stated that when they arrived at Pitch, they grabbed a drink and grabbed a table before starting to mingle. P485. Winslow testified that the bar was crowded when they got there

but got even more crowded when the karaoke was getting ready to start around 9:00 or 9:30. P486. Winslow testified that he was at a table that was somewhat close to the bar, maybe 10 feet away. P486. When Winslow first sat at the table it was with Mesick, Holmes, and Rob Myers (at least for a little bit). P487. Winslow testified that there were also people just kind of walking up to the table and either waiting for a drink or conversing. P487. At some point in time Kromm arrived at the bar but Winslow did not know what time that happened. P487. After she arrived at Pitch, Winslow testified that Kromm approached the table where they were seated and sat down before starting to talk with everyone around the table. P487-488.

According to Winslow, Mesick, Kromm, Denault, and Holmes were all at the table with him, along with two people that Winslow did not know. P488-492.

Winslow testified that throughout the time people were up walking around and other people would sit down. P493. Winslow stated that he had bought a couple of rounds (at least three times) because the drinks were really cheap and he would hand them out while people would be coming and going. P493-494. Winslow stated that when he would deliver the drinks to the table, he would take the drink to the table and would just kind of go between people and hand them the drinks. P494. Winslow testified that while he was delivering the drinks he would have had to lean between everyone, including Kromm, Holmes, etc. P494-495. According to Winslow, the bar was getting more and more crowded so he left the table because he kept getting bumped into so he went and sat at the bar with Sievert for quite a while. P493.

Winslow stated that he was drinking Coors Light but did not recall what Kromm was drinking. P495. Winslow testified that several beer bottles accumulated on the table. P495. Winslow stated that he grabbed a Coors Light bottle off of the table and spit his chewing tobacco into the bottle but he did not say anything to the effect of "that's what bitch taste like" while

spitting into the bottle. P495-496. Winslow testified that he would not talk that way and also that it would not make any sense for him to say something like that. P496. Winslow stated that he would have had to scream that for someone to hear him say something like that, and everyone would have heard him say it if he did. P497.

Winslow testified that throughout that evening he never had any type of disagreement or altercation with Kromm. P497. Winslow stated that he did not grab Kromm's breast and that if Windisch's account was accurate, Winslow would be amazed that no one in the vicinity saw anything. P497-498. Winslow also stated that there was conflicting testimony between Windisch and Kromm. P497-498. Winslow testified that this conduct is something he would never do, and that there was probably forty people in the bar that evening that knew him, some knew him well. P498-499. Winslow stated that he would never intentionally grab anyone. P499. Winslow explained that there was a strong possibility that, as he was reaching between people, he could have come in contact unintentionally, but not for any sexual gratification due to any type of anger toward Kromm. P499. Winslow testified that Kromm did not say anything to him about grabbing her breast or the alleged statement with the beer bottle. P500. Winslow was not made aware of the allegations against him until he was served with the administrative paperwork in June 2017. P500.

During his administrative interview, Winslow stated that he was "in shock, surprise, dismay, because I was just served paperwork on this [case]." P500-501. Winslow testified that he found it unusual that the first he was learning of the investigation against him was when he was served the paperwork because normally if you are being investigated you know that you are being investigated. P501. Winslow stated that during the DII interview he was often asked open-ended questions as in "anything could have happened or couldn't it have happened" and he stated he

could not have visualized himself going up and grabbing her but he could visualize going in between and maybe brushing her with incidental contact. P501. According to Winslow, he was under a great deal of stress at that time, and is still under a great deal of stress because of this case. P501.

On April 20, 2017, Winslow testified that he was in contact with Kromm via text message. P502. Winslow stated that he initiated the contact, telling Kromm that his phone had been messing up and asking her if she had texted him. P502. Her response was “nope, did u want me to?” P502. Winslow’s response was “that’s okay” and “fucking phone is about ready to die or something, doing weird shit” to which she replied “lol.” P502. Winslow stated that the conference started at 8:30 a.m. and went until 11:30 a.m. with lunch scheduled from 12:15 p.m. to 1:30 p.m. P502-503, Respondent’s Exhibit 9. At 11:30 a.m. that morning, Kromm texted Winslow about going drinking. P503. Winslow stated that he thought they were still joking around, but in response to her message he said “no, I’m about to start tho” because it was still stressful. P503. Kromm responded “u got beer?” which, according to Winslow, meant did he still have beer in his room, to which he responded “yup.” P503. Kromm then sent “well shit, let’s go drink” and Winslow responded “sounds good, I’ve got to finish my ‘job duties’ here first, lol.” P503. Later, Kromm sent Winslow another text again asking if he was drinking and he replied that he had just got back to his room but he had to do some work. P503-504. During these communications, Winslow stated that he had no reason to believe, or have any reason to believe, there was any animosity between he and Kromm. P504. Winslow testified that if he had engaged in the kind of conduct and put somebody in that type of position which would ultimately lead to this type of investigation, that the last thing he would do is text that person about drinking the next day. P504-505.

Winslow testified that at Pitch on April 19, he was involved in breaking up an altercation between Kromm and Holmes. P505. Winslow stated that he had not seen any contact between the two because he was at the bar with Sievert at the time with his back to the table. P505. Winslow testified that he just remembered someone coming up and saying that Kromm and Holmes had gotten into an argument. P505. Winslow then turned around and Holmes was relatively close to him and he then asked Holmes what was going on to which Holmes replied “she’s fucking crazy.” P505.

Winslow stated that he did not believe he had slurred speech or blood shot eyes. P506-507. Winslow stated that if he recalled Windisch’s testimony correctly, Windisch stated that he was over five feet away when he witnessed Winslow’s bloodshot eyes, in a dark bar, so, Winslow found it hard to believe that he could “summarize my state of sobriety on an eye check from five feet away and listening to me in a loud, crowded bar if my voice raised or lowered as I’m talking to someone.” P507-508. Winslow did not recall ever having a conversation with Windisch, other than possibly a greeting. P508.

In January 2018, Winslow applied for a promotion to the rank of Captain. P508. That process involved Winslow taking a promotional exam. He was then placed on a list, from which he could apply for open Captain’s position, which he did for Zone Two, Investigative Commander. P508. Winslow went to Springfield to meet with the board for an interview panel where the panel asks different questions and different scenarios and then the panel ranks the candidates depending on the answer. P508-509. Winslow testified that if he wasn’t one of the highest ranked applicants, he had to be in the top five as he received a 79 out of 81. P509. During the promotional interview, Vega was present but Vega did not make any comments concerning the DII investigation in Winslow’s presence. Winslow learned that the investigation was brought up by testimony from

Loan during the hearing. P509. Winslow's understanding was that Simington and Vega brought up the investigation during the promotional interview, that Winslow had either a Giglio issue or that, as far as Vega was concerned, Winslow was guilty of the charges against him because of DII sustaining Kromm's complaint. P510. Winslow stated that he later learned that he was only coming to the Merit Board hearing to find punishment. P510.

Winslow testified that he was familiar with the allegations in the Merit Board complaint and that he was not charged with any act of untruthfulness either in his oral statements or written documents. P511. Winslow testified that he does not believe he is guilty of Count I because he never grabbed Kromm or intentionally touched her in any way. Winslow said he was not guilty of Count III because he did not believe he was highly intoxicated, that he was not guilty of Count IV because his phone was not ISP property, and that he was not guilty of Count VI because the function was not a departmental function, the State Police did not sponsor it and he was off duty at a bar. P511-518. With respect to Count II regarding sexual harassment, Winslow testified that he did send the text message to Kromm along the lines of "get your ass here or I'll spank it" but that it was simply meant as a joke (a poor joke admittedly), kind of a banter back and forth that he thought they had going but in retrospect, being a Command Officer he should not have engaged in that kind of communication with Kromm. P511-512. As far as the other allegations in Counts II and V, Winslow maintained that he did not grab or intentionally touch Kromm's breast and that he did not stick his tongue in a beer bottle and say it tasted like bitch. P512-518. In regards to Count III, Winslow stated that while he was at Pitch he probably had six or seven beers, and that he was a little over six-foot-tall and weighed 270 pounds at that time. P514. Winslow testified that he took half a Tramadol that he was taking for a back injury, Wellbutrin because he had insomnia, and his high blood pressure medicine, but Winslow stated those medicines, to his

knowledge, did not cause adverse effects when consuming alcohol. P513-515. In regards to Count V, Winslow stated that he understood he put himself in his present position with the text message. P516.

Winslow testified that during his career he has always met or exceeded expectations in both his Part Two Job Performance Evaluations and Part Three Promotional Skills Evaluations and that as far as he knows, he is a sought-after expert in the field of Drug Enforcement given the number of times he has testified in both State and Federal courts as an expert, his teaching for the Inspector General's Academy for Federal Government, his teaching at the local level, and the fact that he helped write the curriculum for ISP Basic Narcotics Officer's School. P518. Winslow has also received special awards during his career. P518-519.

Winslow testified that he felt the 45-day suspension that the Department requested based on the discipline matrix is too severe. P519. Winslow stated that he initially offered 25 days and that he felt offering that was forthcoming for where he was at in the situation since he "didn't grab anybody's breast with any sexual intent" and he "didn't stick my tongue in a beer bottle . . . to say anything other than the fact that I was chewing tobacco." P519. Winslow testified that it is hard to disprove a negative but it was also hard for him to understand how the events allegedly unfolded and with all the people around only one person allegedly witnessed the event. P519-520. Winslow stated that it was possible there was incidental contact when he was passing out drinks and that he would never intentionally make someone feel that way and he had no reason to believe he made Kromm feel bad based on the contact the two had the next day. P520.

On cross examination Winslow again admitted to sending the text to Kromm regarding spanking her ass and that he sent a text with the word fuck in it. P521-522. (Petitioner's Exhibit 2). Winslow testified that he does not necessarily believe that as a lieutenant with the ISP the moment

he gets off the clock he no longer represents the ISP. P522. Winslow stated that it is true that ISP officers can be disciplined for conduct that occurs off-duty. P522. Winslow testified that he did not believe that Tramadol was an opioid but he believed it has been a Class Four drug for a couple of years so it may be in the opiate family but he did not believe it was an opiate. P522-523. Winslow admitted that he had told the DII investigators that he was intoxicated on the night of the 19th. He indicated he was not intoxicated when he arrived at Pitch but he had six or seven beers while he was there. P524.

Winslow testified that during the administrative interview he was under severe duress and stress and was asked open-ended questions but that during the interview he stated he was not denying that he grabbed Kromm's breast but he sure as hell did not recall it. P525-526. Winslow stated that during the administrative interview he was instructed to truthfully answer the questions of the investigator and to the best of his recollection, under duress and stress, he did truthfully answer the questions. P527-528. Winslow again testified that he did not grab Kromm's breast. P528. Winslow stated that during his administrative interview he said that anything was possible when asked about grabbing Kromm's breast and when asked about saying that's what bitch tastes like he again answered the DII investigators "yes, anything is possible." P530-531 P535-536. At the hearing, Winslow testified that he had had a long time to reflect and he did not say anything regarding the bottle tasting like bitch. P533. Additionally, Winslow stated that the administrative interview was on June 20, 2017 but he did not agree that someone's memory was better closer to an event. P533.

Winslow testified that, while once undercover, he was grabbed inappropriately in a bar by one of the strippers but in the context of where he was at and in the environment he was in, it did

not make him feel anything. P538. This testimony was in reference to Winslow's previous testimony about how he thought Kromm should have been acting if she was battered. P538.

On redirect examination, Winslow stated that at the time of his DII interview, he answered the questions they asked truthfully and that he would have expected the Department to file some charges against him alleging untruthfulness if he had not answered the questions truthfully. P539.

SERGEANT YVETTE ROSS

Sergeant Yvette Ross (hereinafter "Ross") has been employed by ISP for seventeen years. P65. Throughout her career, Ross has worked in a number of departments with the ISP, including: District 15 from graduation from the academy in 2002 until 2006, DII from 2006 until 2008, and EEO from 2008 until August 2017. Ross is currently working in the Protective Services Unit. P65. In April 2017, Ross was the intake officer with EEO. P65. Ross described her job as an intake officer as follows: An intake officer meets with a complainant after the complainant contacts the office, hears the complainant's side of the story and attempt to resolve whatever the issue was at the intake level, without it going through the disciplinary process. P65. An intake interview is confidential to the extent that only those who need to know are informed. P66. She said the EEO office does not conduct investigations. She said EEO cases and DII investigations are governed by different ISP policies. P66. EEO offices and DII offices are also separate; each office does its own work. P66-67. EEO procedures are governed by PER-09, which outlines the steps that are taken in an EEO inquiry. P66-67. (Respondent's Exhibit 1). The steps include: complainant contacting the EEO office, the intake officer reaching out to the complainant and hearing the complainant's side of the story, the intake officer reaching out to the respondent to give the respondent an opportunity to explain his/her side of the story. P67. According to Ross, respondent is not obligated to talk with the intake officer but after hearing the facts, ascertaining

whether or not there was a prima facie case for an EEO violation, the intake officer then may determine that trying to resolve the issue at the EEO level is inappropriate and thus the complaint would go straight to DII for an investigation. P67-68. In the case at hand, it was determined that Kromm's complaint should go straight to a DII investigation. P68.

Ross said that one way a complaint can be resolved is through mutual informal mediation or formal mediation where the parties would be able to try to reach some agreement by discussing their issues. P68. This process would also involve someone from the chain of command for each party being present to weigh in on positive resolutions. P68. After sitting down with the complainant and gathering the facts, the intake officer determines how the complainant would like to proceed. P68. Here, Kromm did not want to sit down and talk with Winslow and just wanted to file a complaint for a DII investigation. P68-69. After this decision was made by Kromm, Ross sent out a closing letter (Respondent's Exhibit 2) that outlined the review of the facts and the outcome of the inquiry. P69. The closing letter also restated the allegations that Kromm made to Ross when they discussed the situation that occurred at Pitch. P69. Kromm stated to Ross that Winslow walked up behind her, touched and grabbed her in a sexually inappropriate manner. P69. Ross said Kromm told her that she had been seated at a table and that Winslow had approached her and the two had a brief conversation before he brushed up against her right breast and then grabbed her left breast. P70. On the intake and resolution form, Ross had also recorded Kromm's allegation of Winslow's behavior. Ross said her recollection was that Kromm reported she had witnessed Winslow taking her beer bottle, placing his tongue in the beer bottle, and making a derogatory remark. P71.

In the closing letter (Respondent's Exhibit 2), Kromm was informed that EEO was forwarding the Complaint Against Department Member Form (hereinafter "CADMF") to DII for

a formal investigation, and at that point in time the complaint was not the concern of EEO but was solely the responsibility of DII. P71. After the complaint was referred to DII, no one from DII or EEO contacted Ross about interviewing witnesses that Winslow, during his administrative interview, requested be interviewed. P71-72. Ross was not aware that, during his Administrative Interview, Winslow requested five different witnesses, all police officers that were at Pitch that evening, be interviewed. P72. Ross said that after she referred the case to DII she had no more involvement in the case. P72. Additionally, Ross again stated that EEO does not conduct any disciplinary investigations so she would not have interviewed any witnesses in this case. P72. She said disciplinary investigations fall under the purview of DII and are governed by PER-30, which does not apply to EEO cases. P73.

Ross stated Kromm did not prepare the CADMF. She said that she prepared the CADMF for Kromm because Kromm was upset after the intake and wanted the complaint to go to an investigation, and generally when this happens, EEO will provide a CADMF form and take the information verbatim from the intake form and put it on the CADMF. P73-74. Additionally, a complainant can send in a signed and notarized CADMF. P74. Ross testified that a complainant sending in their own CADMF is not necessarily the standard and preferred method. P74. In this case, Ross took the information verbatim off of the intake form and put it on the CADMF in the presence of Kromm prior to the two of them going and getting the CADMF notarized. P74-75. Ross did not recall whether Kromm read the complaint before signing it. P75. Ross had no idea what happened in Kromm's interview with DII. P76.

On cross examination, Ross testified that there are higher ranking members within EEO that could have collaborated with DII on EEO investigations without her knowledge and that on PER-30 (Petitioner's Exhibit 1) there is a directive that indicates that EEO will work either

independently or in cooperation with DII and that her earlier testimony on that point would have been mistaken. P77. Ross also stated that the PER-30 directive is relevant to the EEO part of the investigation. P77.

On redirect examination, Ross again testified that EEO does not do investigations and once the CADMF was filled out and submitted it would be handled by DII. P78-79. Ross also testified, after reviewing a two-inch thick document labeled "Illinois State Police Division of Internal Investigations" and also listed "Lieutenant Kevin Winslow," that DII did an investigation of Winslow. P80. Ross stated that in approximately 2010 EEO disbanded their investigations unit and began sending all investigations to DII; however, prior to 2010 EEO did do investigations, that she did investigations, and Ross stated that if a complaining witness had told her that they knew four or five people that have information on the incident, she would have contacted them, depending on the information and what the investigation involved, to ensure a complete and throughout investigation. P81.

On recross examination, Ross testified that back when she conducted investigations there was a privacy (confidentiality) interest with respect to the victim. P81. She said investigators did not want to jeopardize the investigation with information that's false or frivolous getting out. She said they wanted to maintain the integrity of what they were doing. P81-82.

On redirect examination, Ross stated that when a CADMF is filed, confidentiality issues do not necessarily go away. She said upper command and the chief would make the call on who should be made privy to information. P82. Ross was unaware whether DII investigations can be subpoenaed or have to be produced pursuant to FOIA requests. P82.

III. GENERAL FINDINGS OF FACT

A. Winslow Background

Winslow has been with ISP since 1999. He started as a trooper in District Seven. In 2001 or 2002 he was moved to the drug interdiction unit. In 2004 he was moved to investigations, to do follow ups around the country for drug interdictions. In 2005 he was transitioned to undercover work. He worked undercover for DEA, ATF, and with the Quad City Metropolitan Enforcement Group (MEG). In 2005 or 2006 he was transferred to work out of the Quad City MEG office as a special agent. Around 2007 or 2008 he was made an undercover supervisor. Around 2009 he began supervising a hotel/motel drug interdiction unit. From 2010 to 2015 he was director of the Quad City MEG. In 2015 he was promoted to Narcotics Lieutenant for Zone Two. As the Narcotics Lieutenant, Winslow oversees all the drug agencies within the twelve counties and three states. Respondent's Exhibit 8 sets forth the MEG, SLANT and other units and employees for which Winslow was responsible.

There was no evidence presented of Winslow ever before having been the subject of discipline or investigations. There was no evidence of Winslow ever before having been alleged to have engaged in inappropriate behavior or of complaints having been lodged against him related to harassment, sexual harassment or anything else.

Winslow's Reviews from 2012 to May 3, 2018 were excellent (Respondent's Exhibit 7). He is by all accounts a skilled employee with an exceptional history of excellence in the area of narcotics investigations and enforcement. He is by all accounts a strong leader. Witness testimony including the following:

- Winslow is "one of the best", very knowledgeable, relied on by others in the state, approachable, alleged behavior out of character (Rieck, P381-382, 388-390)

- Good reputation, very competent, hard worker, sought advice from him, treated her respectfully, alleged behavior out of character (Sievert, P395-397)
- Respected in the field of narcotics, highly rated, never known to act inappropriately around females, alleged behavior out of character, highly qualified, very well known, recognized drug enforcement officer at state and federal level, teacher, advisor, highly rated, alleged behavior out of character (Loan, P439-441, 443, 450-451)
- Good supervisor, very knowledgeable about operations (Merritt, P321)

B. Text Communications Between Winslow and Kromm

The evidence elicited at the hearing demonstrates the following exchanges between Kromm and Winslow on Wednesday, April 19, 2017 and Thursday, April 20, 2017:

(Commencing 7:14 p.m. on April 19, 2017):

Kromm:

Sammy
Lol why would t u
Wouldn't

Winslow:

Wouldn't what

Kromm:

Why wouldn't u love me
U coming to the bar I'm at

Winslow:

What bar
I have a bar in my room lol

Kromm:

Marty's center tap
U shld come

Winslow:

I should do a lot of shit

Kromm:

I know
So u coming

Winslow:
I have no idea where that's at.

Kromm:
We going to kellehers

Winslow:
Go to pitch

Kromm:
No
U come here

Winslow:
Nope

Kromm:
Middle finger emoji

Winslow:
Go to pitch and dump ur chaperone

Kromm:
Don't hve one
See u soon

Winslow:
Ok we shall see.
I'll be there until I'm not

Kromm:
Ha
U don't care
Could've come here

Winslow:
I'm here now

Kromm:
K

Winslow:
Get ur ass here
Or I'll spank it

(Commencing 3:05 a.m. on April 20, 2017):

Winslow:

Where u at

Again where U at. My phone died

Kromm:

Mine too

Winslow:

Wow even ur voicemail sounds ADD

Ok. Cya later

Whatever chicken shit

Lol

(Commencing 11:02 a.m. on April 20, 2017):

Winslow:

Did u just text or call me. My phone is fucking up.
It's pissing me off

Kromm:

Nope

Did u want me to

Winslow:

No that's ok. Fucking phone is about ready to die or
something. Doing weird shit.

Kromm:

Lol

U drinking

Winslow:

No I'm about to start tho

Kromm:

U got beer?

Winslow:

Yup

Kromm:

Well shit

Let's go drink

Winslow:

Sounds good. Got to finish my “job duties” here first
Lol

Kromm:
U drinking

Winslow:
Just got to my room

Kromm:
U drinking

(Commencing 2:53 p.m. on April 20, 2017):

Winslow:
Sorry just saw ur text

According to Kromm, she and Winslow exchanged phone numbers while they were in Winslow’s suite on April 19, 2017. Kromm acknowledged that the first text message was from Kromm to Winslow at 7:14 p.m. on April 19. Kromm believed she was at a bar when she sent the first text. Kromm said that she received a text message from Winslow while she was at a bar, Kelleher’s, letting her know where he was. P93.

Kromm testified to the accuracy of the above stated stream of text messages. She did not believe her text “why wouldn’t u love me” to have sexual connotations. She said she did not even know what it meant. Kromm believed her message was simply outgoing and conversational. She acknowledged her text was probably not proper. P121.

Winslow said he thought Kromm was joking around when she sent the “why wouldn’t u love me” text. His opinion was he and Kromm were bantering back and forth and that she was someone who could be kidded around with. P484-485.

Kromm testified to Winslow’s “Get ur ass here or I’ll spank it” message making her feel violated and embarrassed. P96. She said she went to Pitch after the text message knowing Winslow was there. P122.

Kromm said she received more messages from Winslow late the evening of April 19, 2017 and into the morning of April 20, 2017 (where Kromm was at, his phone had died). Kromm said she felt a need to keep responding to Winslow's texts (your voicemail sounds ADD, see you later, chickenshit, LOL) because Winslow was in a position of power and she was in a man's world.

The evidence was clear to the Hearing Officer that both Winslow and Kromm were under the influence of alcohol or intoxicated when texting each other back and forth on April 19 and early April 20, 2017.

Kromm said she received the text message from Winslow about having problems with his phone on April 20, 2017 at about 11:02 a.m. P144. Winslow said that when Kromm texted him later the morning of April 20, 2017 about going drinking he thought they were still joking around. P503. He said that during the exchanges he had no reason to believe there was animosity between he and Kromm. P503-505. Winslow testified that he did not sexually harass Kromm and that his "get ur ass here or I'll spank it" text was regrettable but was banter and meant as a joke. P511-512.

Kromm acknowledged an appearance of her inviting Winslow to go drinking on April 20. She said she sent the messages because she was embarrassed and concerned about Winslow retaliating, that she was concerned about her career and Winslow being upset with her.

Kromm acknowledged Winslow not being her supervisor or in her chain of command and having nothing to do with her ratings or chance of promotion. She said, however, she believed Winslow could still have influence over her ability to rise in rank with the ISP, especially if she wanted to join a task force.

Denault, a long-time friend of Kromm's, was with Kromm on April 19 and 20. He was unaware of the text exchanges between Kromm and Winslow and said Kromm had not complained of improper text messages.

Vega testified that under ISP's sexual harassment policies, the expectation of a supervisor is to not tolerate or participate in conduct that could be seen as harassing and to set a good example. P180. He said supervisors drive the culture and are responsible for ensuring leadership. Winslow was aware of the ISP policy prohibiting any sexual harassment or any harassing behavior.

Count II of the Complaint alleges that Winslow violated policies and procedures in directive PER-032, "Discrimination and Harassment" and PER-033, "Sexual Harassment."

PER-032

Specifically, Winslow is alleged to have violated I.A of PER-032 prohibiting harassment, I.B prohibiting misconduct even if it does not rise to the level of harassment and IV.B.1 which states that supervisors and managers will set standards for acceptable behavior in the workplace and will ensure their actions are not reasonably offensive and will refuse to tolerate any form of harassing conduct, discrimination, harassment or retaliation.

PER-032 (III.G) describes "discrimination" as an adverse employment action based on an impermissible factor. The Hearing Officer cannot find by a preponderance of the evidence that there was any adverse employment action against Kromm and therefore concludes discrimination is not an issue in this case.

PER-032 (III.R) describes harassing conduct as "conduct that may reasonably cause another person to feel offended, humiliated, intimidated, insulted or ridiculed."

PER-032 (III.S) describes harassment to include, in relevant part (there being no issue here of job benefits or adverse employment actions) conduct personally directed at a specific individual

so severe or pervasive that it has the purpose or effect of unreasonably interfering with that individual's work performance or creates an intimidating, hostile, abusive or offensive work environment (III.S.1.b.1).

PER-032 (III.GG) describes "workplace" as a location where employees are engaged in work-related activities or are present as a condition or because of their employment. The workplace includes ISP occupied locations and may include other locations when events at that location have "impact on the work environment of an employee."

PER-032 (IV.A.2) encourages employees who believe they are victims of harassment to tell the initiating party that their actions are unwelcome and offensive.

With respect to alleged violations by Winslow of PER-032, "Discrimination and Harassment":

1. The Hearing Officer finds Kromm did not tell or suggest to Winslow his text messages were unwelcome or offensive.
2. The activities at and surrounding the April 19-20 IDEOA Training Conference did constitute being in the "workplace" as Winslow and Kromm were both present due to their employment and because events during the conference had an impact on Kromm's work environment.
3. The Hearing Officer cannot find by a preponderance of the evidence that Winslow's text messages regarding "get ur ass here or I'll spank it" was, in light of all of the circumstances including bantering text messages earlier sent by Kromm, such that Winslow's text message could reasonably cause Kromm to feel humiliated, intimidated, insulted or ridiculed ("harassing conduct").

4. The Hearing Officer cannot find by a preponderance of the evidence that the text message “get ur ass here or I’ll spank it” so “severe or pervasive that it had the purpose or effect of unreasonably interfering” with Kromm’s work performance or that it “created a hostile, abusive or offensive work environment” (PER-032 III.S.1.b.1).

5. Winslow’s text message cannot be viewed in a bubble. It was sent by Winslow to Kromm after a series of text messages, first launched by Kromm, that included her asking him “why wouldn’t u love me” and her asking if he was coming to the bar, encouraging him to come to the bar and sending him a middle finger emoji when Winslow said he was not going to a bar called Kelleher’s.

6. The text messaging between Kromm and Winslow lasted for a period of time less than 24 hours. There is no evidence Winslow’s text message interfered with Kromm’s work performance or created a hostile work environment.

7. Winslow was not Kromm’s supervisor. They did not work together.

8. With respect to “harassing conduct” as referenced in the Complaint, the Hearing Officer cannot conclude by a preponderance of the evidence that Winslow’s text message regarding Kromm getting her ass there or him spanking it constituted harassing conduct. In light of the circumstances the Hearing Officer cannot conclude by a preponderance of the evidence that Winslow should have reasonably concluded that his text message would cause Kromm, who had initiated the text stream with statements about “why wouldn’t u love me,” drinking together at a bar and middle finger emojis, to have a sensitivity level such that he would believe her to become offended, humiliated, intimidated, insulted or ridiculed based on her gender.

Though inadvisable, the Hearing Officer cannot conclude by a preponderance of the evidence that Winslow violated PER-032 (“Discrimination and Harassment”) by sending the text message about Kromm getting her ass there or him spanking it.

PER-033

PER-033 addresses “Sexual Harassment” in addition to “Harassment”. PER-033 defines harassment in the same manner as PER-032. As stated above, the Hearing Officer does not find by a preponderance of the evidence that Winslow engaged in harassing conduct or harassment due to the text messages sent to Kromm. In relevant part, PER-033 describes sexual harassment as any unwelcome sexual conduct in the workplace when “such conduct is personally directed at a specific individual and is so severe or pervasive that it has the purpose or effect of unreasonably interfering with that individual’s work performance or creates an intimidating, hostile, abusive or offensive working environment.”

The Hearing Officer cannot conclude by a preponderance of the evidence that, taken in light of all circumstances, the text regarding spanking Kromm’s ass was sexual in nature, that it was severe or pervasive or that the text unreasonably interfered with Kromm’s work performance or created a hostile work environment for Kromm.

PER-033 IV.B.1 states supervisors and managers are “to set the standards for acceptable behavior in the workplace.”

The Hearing Officer finds by a preponderance of the evidence that Winslow did not set the standard for acceptable behavior in the workplace. Despite Kromm first initiating text messaging that did not constitute appropriate workplace communications, the standard for Winslow was higher.

PER-033 IV.B.1 goes on to state that supervisors will refuse to tolerate any form of harassing conduct or sexual harassment. Kromm's communications to Winslow via text message were not appropriate. Winslow's responses were not appropriate. Just as the Hearing Officer does not find Winslow's text communications to be harassing conduct or sexual harassment nor does she find Kromm's communication to be harassing sexually or otherwise, such that Winslow was under mandate to shut them down (refuse to tolerate them).

PER-033 IV.B.2 states a supervisor will ensure their actions are not reasonably offensive on the basis of sex which includes the characteristic of gender and includes indicating a casual dating, romantic or sexual interest toward another by way of conversation, body language or brief physical contact regardless of whether such conduct is one-sided, reciprocated or encouraged.

The Hearing Officer cannot conclude, based on a preponderance of the evidence, that Winslow's text regarding spanking Kromm was reasonably offensive on the basis of sex.

Count II of the Complaint references just the following from PER-033: I.A, I.B, IV.B.2. For that reason the Hearing Officer limits her analysis of PER-033, though she did study and apply the definitions of harassing conduct, harassment and sexual harassment. Count II of the Complaint does not specifically allege how the application of PER-033 definitions to facts relating to text messaging form the basis of charges in this case; nevertheless, the Hearing Officer has done her best to apply the standards set by PER-033 definitions.

C. Contact with Kromm's Breast

ISP alleges that Winslow (1) committed a battery, (2) violated harassment and sexual harassment policies, (3) engaged in obnoxious, offensive behavior brought on by the consumption of alcohol and (4) discredited the integrity of the ISP and impaired the operations of ISP when he grabbed Kromm's breast at Pitch on April 19, 2017.

After events relating to the 2017 IDEOA Conference, Winslow and Kromm were both at Pitch. Both had consumed significant amounts of alcohol. Both testified the bar, Pitch, was loud and crowded. Kromm and her friend, Denault, spent time at the bar area of Pitch drinking beer.

Kromm testified she left the bar area at Pitch and sat down at a high-top table. P99, 130. She said she saw Winslow approach her table and that he walked up behind her, brushed her right breast and squeezed (grabbed) her left breast once. She said Winslow then acted and spoke inappropriately involving a beer bottle (addressed below) and walked away.

Kromm did not recall how many seats were at her table. Other than Denault being to her left and Windisch standing to her right she did not know who else was around the table but there were others.

Kromm said Trooper Windisch observed Winslow grab her breast. According to Kromm, Windisch initially did not say anything because he did not know if Kromm and Winslow were dating.

Kromm said she stayed at Pitch about ten to twenty minutes after the incident (P104, 136) and then left. She said on cross examination she sat for a while with a person with a beard who stole a sandwich out of her purse resulting in an argument and that Winslow and a female detective had to intervene and break up the altercation. She then said she and Denault left Pitch. She reported the incident to no one. She texted with Winslow that night and the next day.

She said she spoke with other police troopers and officers after the incident but due to discomfort reported nothing for a couple of weeks. P105-106.

Kromm said she discussed the incident with Trooper Windisch the night of the incident, the next day and up until she talked to Lieutenant McGreal out of Chicago.

Windisch said he too was at Pitch on April 19, 2017. He said he approached the table at which Kromm was sitting about 9:30 p.m. He said Kromm and Winslow were talking at a high-top table and leaning in toward each other. He said only Winslow and Kromm were seated. Others were standing. He said he observed Winslow reach his right hand across the back of Kromm, go under her right arm and grab her right breast. He said Winslow's full hand was on Kromm's right breast and that he squeezed Kromm's breast three to five seconds. He said he observed Winslow sitting at Kromm's left side, with nobody on her right side when Winslow grabbed her breast. Windisch said he was about five feet from the table. P32.

Windisch and Kromm discussed the incident later and he recommended she report the incident.

Windisch believed both Kromm and Winslow to be intoxicated at Pitch.

Windisch did not recall telling DII that Winslow and Kromm were standing shoulder to shoulder when Winslow grabbed Kromm's breast, or that he (Windisch) was seated to the right of Kromm when the breast grabbing took place. P45, 47, 58. Similarly, Windisch did not recall telling DII that Winslow approached Kromm from the back while she was seated at the table and put his hands underneath her arms. Windisch had no awareness that Kromm alleged that Winslow grabbed her left breast and he did not believe Kromm ever told him that Winslow grabbed her left breast, and that he never saw Winslow grab the left breast.

Windisch testified that he did not recall seeing Winslow buying beers for patrons or handing out beers to people seated at the table that night. The table that Winslow and Kromm were sitting at was in the center of the room. Karaoke was taking place in the back half of the bar. The distance from the speakers was maybe ten to fifteen feet.

Windisch testified that he had an opportunity to review a summary of his interview with DII prior to testifying at the hearing, that he did indeed review the summary, and that his testimony at the hearing was still that Kromm was seated at the time her breast was grabbed.

At the time that Windisch observed Winslow grab Kromm's breast he said the only two people seated at the table were Kromm and Winslow. He said there were others in the area but they were involved in conversation and Windisch did not know how much the others were able to see because of those conversations. Windisch said he was returning from listening to karaoke and was walking up to the table, which is why he said he was able to see the grabbing of the breast. After the incident occurred, Windisch said he stood there surprised at what he had just witnessed and observed Kromm looking directly at him in a sense of shock. Windisch remained at the table following the incident to allow Kromm to vent and subsequently stayed at the bar for another ten to fifteen minutes. Throughout the evening, Windisch did not observe anyone besides Kromm and Winslow seated at the table. Windisch was not aware of any other altercations that Kromm had with anyone else that evening. P51-53.

On redirect examination, Windisch testified that the table that Winslow and Kromm were seated at was higher than an average table, maybe three feet tall, and it was round. At the time of his observations, Windisch was directly across from Kromm and Winslow. Windisch again testified that if the summary of his DII interview stated that Kromm and Winslow were standing (1) the summary was incorrect or (2) he misspoke at the interview because he saw them seated. P60-62.

On redirect, Windisch again stated that when he was interviewed by DII he stated that he observed Winslow grab Kromm's breast and again at the hearing his testimony was that he observed Winslow grab Kromm's breast.

Rock Island officer Justin Holmes said when he was at Pitch he sat down at a table but could not recall who was seated at the table when he first went and sat down. Holmes testified that, while he was seated at the table, Winslow was buying rounds for individuals and after buying the drink Winslow would just walk up and hand that person the drink. Holmes stated that Kromm arrived to the bar at some point that evening alone and he recalled watching her walk through the door, and after she came in the door she walked directly towards him and struck up a conversation with him, before eventually taking a seat at the table. Holmes testified that Kromm was seated directly to his left and Pat Mesick was also seated at the table across from Kromm. After Kromm sat next to Holmes at the table the whole table had conversations. Holmes testified that while he was seated at the table with Kromm she began playing with his hair, long and curly at the time, his full beard, and playing with his chest. Holmes stated they were all, including Kromm, intoxicated at this time.

Holmes testified that while he was seated at the table he began eating a beef sandwich that was on top of Kromm's purse. Holmes stated that he and Kromm were talking about the sandwich and somehow, he started eating it, and he did not recall her objecting to his eating of the sandwich. Holmes stated that he and Kromm had an altercation sometime after his consumption of the beef sandwich, during which Kromm was yelling. Holmes testified that Winslow and Detective Ann Sievert were up at the bar and then came over to where Holmes and Kromm were at, stepped in and separated Holmes and Kromm. Holmes and Sievert then departed Pitch and went to the bar next door, where they remained for quite a while without going back to Pitch.

Holmes testified that he never saw Winslow seated at the table with Kromm and that throughout the evening Kromm would get up and move around with Holmes because, in Holmes' opinion, Kromm liked his company. Holmes testified that when he was next to Kromm he did not

see Winslow grab her breast and Kromm never mentioned to him her breast having been grabbed that evening.

On cross examination Holmes testified that he was not next to Kromm the entire night at Pitch nor was he staring at her breast the entire night. Holmes stated that he could not say for certain that Winslow never grabbed Kromm's breast. Holmes stated that he was intoxicated that evening and had no clue how many drinks he had that evening, nor did he know how many drinks he had prior to Kromm arriving at Pitch. Holmes testified that he had no clue what time Kromm arrived at Pitch and had no clue what time the altercation with Kromm over the beef sandwich took place, but he thought he left the bar a couple hours before it closed since he went to the bar next door for a good amount of time.

Bettendorf, Iowa police officer Patrick Mesick said after leaving Winslow's suite he went to Pitch. He was seated at a table most of the night. P367. Mesick stated that the bar was packed, with most of the police officers standing shoulder to shoulder. While at the table, Mesick testified that Winslow, Holmes, Kromm and Jason Happach were also at the table, as well as Sievert for a little while. Additionally, Mesick stated a few other ISP guys that he had met that night were there, but he could not remember their names. Mesick stated that Kromm and Holmes were next to each other most of the night and described their interactions as flirtatious with Kromm's hand on Holmes' shoulder at times. Mesick did not witness any altercation between Kromm and Holmes.

Mesick testified that while he was seated across from Kromm, everyone was taking turns buying drinks for each other and Winslow had gone up to buy a round of drinks for the table and after Winslow sat the drink down on the table, Kromm stuck her finger in Mesick's drink. Because of this, Mesick made Kromm go buy him a new drink and that was the extent of the conversation he had with her. Mesick stated that he, Kromm, Winslow and Holmes were all sitting around

talking. Mesick testified that Winslow bought two rounds of drinks that he recalled and delivered the rounds to the table. He said the table was crowded when Winslow delivered drinks. When Winslow delivered the drinks to the table, Mesick stated, because of the crowd, either someone would move aside and Winslow would set the drink down, or people would step aside and then pass the drinks down.

Mesick stated that while he was seated at the table he never heard Kromm complain about any conduct of Winslow and he never witnessed anything inappropriate between the two. Mesick testified that he did not see Winslow grab Kromm's breast.

On cross examination, Mesick testified that his eyes were not on Kromm's breast the entire night. He said he could not say for certain that Winslow did not grab Kromm's breast at some point in the evening but he never saw it.

Rieck, an ISP employee, was also at Pitch that evening. Rieck testified that while at Pitch he mostly sat with his back to the wall so that he could have a good vantage point to watch the guys have a good time. Rieck stated that Todd Noe, the Deputy Director of MEG was seated at the table with him, as well as Holmes who came over and sat at one point in addition to others who would just come and go. While Holmes was at the table with Rieck, Rieck observed Kromm come up to the table and grab Holmes' drink, pick it up and put her tongue in the drink while staring at Holmes, and then she sat the drink down on the table before walking away without saying a word. Rieck stated that he was not able to arrive at an opinion regarding Kromm's level of intoxication because he was focused on Holmes since he was not aware that Kromm and Holmes knew each other. He said he was shocked by Kromm's behavior.

Rieck testified that he was probably at Pitch for no more than a couple of hours that night and he did not recall seeing any interaction between Winslow and Kromm. Rieck did not

remember even seeing Winslow at Pitch but he testified that he did not really pay much attention to the area that they had been at because he was more focused on the karaoke area.

Sievert went to Pitch around 9:00 to 9:30 p.m. that evening, and upon arrival she stated that she drank some beers. Sievert testified that she had been at Pitch a while before Kromm arrived and that she observed Kromm walk in with a couple of other people. P401-402. Sievert did not know how long she was at Pitch. While at Pitch, Sievert stated that she had a conversation with Winslow at the bar around an hour to an hour and a half after she arrived at the bar. She said the conversation lasted at least forty-five minutes and the conversation was about some marital issues that Winslow was having and he was upset about them. Sievert stated that she could tell Winslow was intoxicated because he was not usually that emotional, but she was able to understand what he was saying and he appeared to be lucid.

While Sievert and Winslow were talking at the bar, Sievert became aware of an altercation after Holmes came up to her in an upset way. After Holmes came up to Sievert, she told Holmes that the two of them were going to leave the bar. Sievert testified that she did not have an interaction with Kromm after Holmes approached Sievert.

LaSalle County Sheriff's Deputy Denault testified he and Kromm went to Pitch together and consumed drinks. He said at points throughout the evening he was both seated and standing by a high-top table with Kromm. He observed Kromm and Winslow speak at Pitch but observed no physical contact. He said while at the high-top table with Kromm and Winslow Kromm appeared upset and told him Winslow grabbed her tit. They both remained in the area thereafter but Denault did not remember where Winslow went. Denault said he was not paying attention to what had allegedly happened between Winslow and Kromm and did not see anything.

Denault said he did not remember when he left the bar or who he left the bar with.

Vega said, based on his review of reports, there were inconsistencies between Kromm and Windisch's stories as to which of Kromm's breasts was grabbed but that such a discrepancy was understandable. P210. Vega said he had been aware Winslow had been buying and delivering beers to the table and could have brushed against Kromm. He said there was a big difference between brushing up against a breast and grabbing a breast. P211.

Vega said he was unaware of Kromm being involved in an altercation with another officer after the alleged breast grabbing incident.

Barber testified that during an administrative interview of Kromm she stated Winslow grabbed her left breast; he said Windisch said Winslow grabbed Kromm's right breast. P250-251.

Barber reported Trooper Windisch, at his administrative interview, stating Winslow and Kromm were talking to each other when he walked in and that after watching people sing, he turned back and saw Winslow and Kromm shoulder to shoulder. P251.

Alger's case briefing, Respondent's Exhibit 6, stated that according to Kromm's CADMF at approximately 10:00 p.m., at Pitch, Winslow "walked up behind her and they engaged in a brief conversation and Winslow then brushed up against her right breast and grabbed her left breast by squeezing it."

According to Alger's case briefing, Winslow at his administrative interview stated he had spoken with Kromm about five minutes at Pitch and had no sexual conversation. Winslow during his interview said he did not recall grabbing Kromm's breast and would not have done so. He said due to intoxication it was possible he grabbed her breast.

When Winslow first sat at the table at Pitch it was with Mesick, Holmes and Rob Myers (at least for a little bit). Winslow testified that there were also people just kind of walking up to the table and either waiting for a drink or conversing. At some point in time Kromm arrived at the

bar but Winslow did not know what time that happened. After she arrived at Pitch, Winslow testified that Kromm approached the table where they were seated and sat down before starting to talk with everyone around the table.

Winslow testified that throughout the time people were up walking around and other people would sit down. Winslow stated that he had bought a couple of rounds (at least three times) because the drinks were really cheap and he would hand them out while people would be coming and going. Winslow stated that when he would deliver the drinks to the table, he would take the drink to the table and would just kind of go between people and hand them the drinks. Winslow testified that while he was delivering the drinks he would have had to lean between everyone, including Kromm, Holmes, etc. According to Winslow, the bar was getting more and more crowded so he left the table because he kept getting bumped into so he went and sat at the bar with Sievert for quite a while.

Winslow testified that throughout that evening he never had any type of disagreement or altercation with Kromm. Winslow stated that he did not grab Kromm's breast and that if Windisch's account was accurate, Winslow would be amazed that no one in the vicinity saw anything. Winslow also stated that there was conflicting testimony between Windisch and Kromm. Winslow testified breast grabbing is something he would never do, and that there were probably forty people in the bar that evening that knew him and some knew him well. Winslow stated that he would never intentionally grab anyone. Winslow explained that there was a strong possibility that, as he was reaching between people, he could have come in contact unintentionally, but not for any sexual gratification due to any type of anger toward Kromm. Winslow testified that Kromm did not say anything to him about grabbing her breast.

Winslow stated that during the DII interview he was often asked open-ended questions as in “anything could have happened or couldn’t it have happened” and he stated he could not have visualized himself going up and grabbing her but he could visualize going in between and maybe brushing her with incidental contact.

During the text communications the next morning between Kromm and Winslow, Winslow stated that he had no reason to believe, or have any reason to believe, there was any animosity between he and Kromm. Winslow testified that if he had engaged in the kind of conduct and put somebody in that type of position which would ultimately lead to this type of investigation, that the last thing he would do is text that person about drinking the next day.

Winslow testified that at Pitch, he was involved in breaking up an altercation between Kromm and Holmes. Winslow stated that he had not seen any contact between the two because he was at the bar with Sievert at the time with his back to the table. Winslow testified that he just remembered someone coming up and saying that Kromm and Holmes had gotten into an argument.

Winslow admitted that he had told the DII investigators that he was intoxicated on the night of April 19. He indicated he was not intoxicated when he arrived at Pitch but he had six or seven beers while he was there.

Winslow testified that during the administrative interview he was under severe duress and stress and was asked open-ended questions but that during the interview he stated he was not denying that he grabbed her breast but he sure as hell did not recall it. Winslow again testified that he did not grab Kromm’s breast.

Ross, an EEO intake officer at the time of the incident said Kromm stated to her that Winslow walked up behind her and touched and grabbed her in a sexually inappropriate manner.

Ross said Kromm told her she had been seated at a table, that Winslow had approached her, they had a brief conversation and he brushed up against her right breast and grabbed her left breast.

The Hearing Officer finds the following factual discrepancies and concerns:

A. Kromm, Winslow and Holmes were all under the influence of alcohol.

B. Kromm testified she sat down at a table at Pitch and that Winslow walked up to her, perhaps had a brief exchange of words and grabbed her left breast. All other evidence is suggestive of Kromm and Holmes engaging in much more extensive conversation at a table surrounded by a number of other people.

C. Windisch's testimony regarding squeezing Kromm's right breast for three to five seconds was not consistent with Kromm's testimony regarding her left breast being "grabbed."

D. Windisch testified to Kromm's shocked appearance after he observed Winslow grab her breast from three to five seconds. Denault testified to Kromm being upset at the table and saying Winslow grabbed her tit. Kromm said she left ten to twenty minutes later.

Other evidence was that Kromm was engaging in flirtatious behavior with Holmes (touching his hair, beard and chest) and then had an altercation with Holmes regarding a sandwich, that Winslow helped with the intervention, that Kromm stuck her finger in Mesick's drink and Mesick had her buy him a replacement drink, that she put her tongue in Holmes' drink.

E. Other people were around the table at Pitch and saw nothing. Sievert was talking to Winslow for a lengthy period of time. Winslow spent time buying and passing out drinks.

The Hearing Officer finds, based on a preponderance of the evidence, including Kromm's testimony regarding being grabbed by Winslow, Winslow's testimony at the administrative interview stating that due to intoxication it was possible he grabbed Kromm's breast, and Denault's testimony regarding Kromm's surprised utterance regarding Winslow grabbing her "tit."

Breaking down the definitions, mandates and factors of the applicable portions of PER-032, “Discrimination and Harassment” and PER-033, “Sexual Harassment” as applied with respect to Text Communications Between Winslow and Kromm in Section B above:

PER-032

A. The Hearing Officer cannot find by a preponderance of the evidence that there was any adverse employment action against Kromm and therefore discrimination is not an issue in this case (PER-032, III.G).

B. Kromm had no advance warning of having her breast grabbed such that she could tell Winslow that his actions were unwelcome and offensive (PER-032, IV.A.2).

C. The activities at and surrounding the April 19-20 IDEOA Training Conference did constitute being in the “workplace” (using a liberal interpretation of workplace – “a location when events at that location have impact on the work environment of an employee” (PER-032, III.GG)) as Kromm and Winslow were both present due to their employment and because events during the conference had an impact on Kromm’s work environment.

D. The Hearing Officer finds by a preponderance of the evidence that Winslow’s contact with Kromm’s breast was so severe (though not pervasive) that it had the effect (though not purpose) of unreasonably interfering with Kromm’s work performance as it created an offensive work environment (PER-032, III.S.1.b.1).

E. The Hearing Officer finds that Winslow’s contact with Kromm’s breast was conduct that could reasonably cause Kromm to feel offended, humiliated, intimidated, insulted or ridiculed (PER-032, III.R).

F. The Hearing Officer concludes that Winslow violated some provisions of PER-032 by having contact with (grabbing) Kromm’s breast.

PER-033

PER-033 defines harassment in the same manner as PER-032 as stated above. The Hearing Officer does find by a preponderance of the evidence that Winslow violated some provisions of PER-032 due to his contact with Kromm's breast (as set forth above).

The Hearing Officer does find, based on the factors of PER-033, that Winslow sexually harassed Kromm as the contact with Kromm's breast (though not pervasive) was severe enough that it had the effect (though not purpose) of unreasonably interfering with Kromm's work performance as it created an intimidating, hostile, abusive or offensive work environment. PER-033, III.E.1.b.1.

The Hearing Officer finds that Winslow, an ISP leader/supervisor, failed to set standards for acceptable behavior in the workplace. PER-033, IV.B.1.

The Hearing Officer finds that Winslow did not "knowingly make physical contact of an insulting or provoking nature" with Kromm's breast and therefore did not commit a battery.

The Hearing Officer finds that Winslow consumed alcohol to the extent it resulted in offensive behavior when he made contact with Kromm's breast.

The Hearing Officer does not find that Winslow engaged in conduct discrediting the integrity of the Département or impairing its operation by having contact with Kromm's breast at Pitch.

D. Beer Bottle Issue

ISP alleges Winslow, on April 19, 2017, grabbed Kromm's nearby beer bottle, spit into it, made a gesture with his tongue and said something to the effect of "so that's what bitch tastes like" and walked away. In Count II of its Complaint, ISP alleges Winslow harassed and sexually

harassed Kromm by “making a crude gesture with his hand, tongue and/or beer bottle and saying something to the effect of ‘so that’s what bitch tastes like’.”

With respect to this allegation, the evidence adduced at the hearing was as follows:

Kromm testified that after Winslow grabbed her breast, he then grabbed her beer bottle, stuck his tongue in the bottle and said “so this is what bitch tastes like” and walked away. Kromm said that made her feel pretty awful. Kromm said she discussed the beer bottle incident with Windisch prior to her DII interview and remembered Winslow sticking his tongue in her beer after talking to Windisch.

Denault, who observed a mad and shocked Kromm and heard Kromm say Winslow had just “grabbed her tit”, did not see Winslow do anything with his tongue and a beer bottle or hear him make a derogatory comment.

Vega said he was familiar with the DII investigation and that Kromm indicated she did not see Winslow stick his tongue in her beer bottle.

Barber testified that, despite the CADMF form (Petitioner’s Exhibit 3), signed by Kromm as true, that Kromm saw Winslow grab her beer bottle, stick his tongue in it and make a derogatory comment, she did not witness Winslow sticking his tongue in her beer bottle.

Alger, also involved in the DII interview of Kromm in May 2017, testified Kromm stating she did not see Winslow spit into her beer bottle or put his tongue on her beer bottle. Alger remembered Kromm saying she heard Winslow say something which Windisch advised her of later.

Winslow testified he did not recall what Kromm was drinking at Pitch but he was drinking Coors Light. He said he spit chewing tobacco into a Coors Light bottle. He said he said nothing to the effect of “so that’s what bitch tastes like.” Winslow said he would have had to scream for

anyone to have heard him say anything like that. Testimony that the bar was loud was consistent among several witnesses.

Winslow denied doing anything with a beer bottle other than drink beer or use it for chewing tobacco. He said he never placed his tongue inside a beer bottle of Kromm's and never said "so that's what bitch tastes like." P24, 26.

Trooper Windisch testified that he was at Pitch on April 19, 2017 and that when he first saw Winslow and Kromm talking together he could not hear the contents of their conversation because the karaoke bar was too loud. He said he later observed Winslow grab Kromm's right breast and thereafter observed Winslow pick up a beer bottle from in front of Kromm from which she had earlier been drinking, stick his tongue in the bottle, slam it on the table and say he thought it tasted like bitch then walk away. P31. Windisch said he was about five feet from the table being shared by Winslow and Kromm. P32.

The Hearing Officer finds that Kromm did not see or hear Winslow do anything with respect to a beer bottle of hers at Pitch. The Hearing Officer has serious doubts about Windisch's account of what he said he heard in light of unrefuted evidence of the high noise level at the bar.

As the Hearing Officer finds Kromm saw and heard nothing at Pitch with respect to the beer bottle, she cannot find by a preponderance of the evidence that Winslow harassed or sexually harassed Kromm by his behavior with a beer bottle or by making derogatory comments.

E. Misuse of Department Telephone

Count IV of the Complaint alleges Winslow violated Department Directive ROC-002, Rules of Conduct, Paragraph III.A.38 by using Department equipment for an unintended purpose to send the following text message to Trooper Kromm: "get ur ass here or I'll spank it."

The Rule at issue states an officer will utilize Department equipment only for its intended purpose. The Complaint does not set forth a definition of "Department Equipment." The Rules of Conduct attached to the Complaint do not define "Department Equipment."

The cellular phone used by Winslow to send the text message at issue was provided by the Quad City Metropolitan Enforcement Group ("QCMEG"). P17. Winslow did, however, use the phone for ISP business as well. P17.

Vega testified the Rule regarding the use of Department equipment is a complicated one. He said MEG units are stand-alone duty units insofar as they have a Board. Vega acknowledged the QCMEG purchasing its own equipment. He acknowledged Winslow's phone having been purchased by the QCMEG and the phone not being inventoried by ISP. Vega said some apps on the phone would have been installed by ISP.

Merritt, a Quad City MEG officer said he was provided a cellular phone by QCMEG. Mesick, an officer with the Bettendorf, Iowa police department, was assigned a telephone purchased by the QCMEG and he did not know who paid for the phone.

Rieck, the Director of the QCMEG, says the MEG unit provides officers with phones that are paid out of the MEG unit's budget. Rieck said the QCMEG is a stand-alone unit. He said the phone are not ISP equipment.

ISP Commander Richard Wilk said MEG units are stand-alone units, created by statute and governed by a policy board. He said ISP has a Board vote but does not rule the Board. Wilk said the MEG unit purchases phones and that funds used are MEG funds. P447-448.

Winslow testified the phone used to text Kromm was not ISP property.

The Hearing Officer cannot find by a preponderance of the evidence that Winslow used Department equipment in sending texts to Kromm and therefore cannot find a violation of Paragraph III.A.38 of the Rules of Conduct.

IV. SPECIFIC FINDINGS OF FACT

Count I

Count I of the Complaint alleges a violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.1 which requires that:

“Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction.”

The Complaint alleges that Winslow violated this rule on April 19, 2017, when he failed to obey state law when he committed the offence of Battery, in violation of 720 ILCS 5/12-3, a Class A misdemeanor, in that on or about April 19, 2017, he knowingly made physical contact of an insulting or provoking nature with Trooper Kromm by grabbing her breast without consent.

As set forth in Section III. General Findings of Fact above, the Hearing Officer does not find that facts are sufficient to find that Winslow broke Illinois law by committing battery when he made contact with Kromm’s breast at Pitch. The Hearing Officer does not find that the preponderance of the facts demonstrated Winslow “knowingly made physical contact of an insulting or provoking nature” with Trooper Kromm by making contact with or “grabbing” her breast.

Count II

Count II of the Complaint alleges a violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.64 which states:

“Officers will not engage in conduct that is in violation of the policies and procedures in directives PER-009, “Equal Employment Opportunity,” PER-032,

“Discrimination and Harassment,” or PER-033, “Sexual Harassment.” (First Offense – Level 4 Misconduct).”

PER-032, “Discrimination and Harassment,” Paragraph I.A., provides:

“The Illinois State Police (ISP) prohibits discrimination in all forms, including but not limited to harassment, and retaliation; such acts are unlawful and will serve as the basis for disciplinary action up to and including termination.”

PER-032, “Discrimination and Harassment,” Paragraph I.B., provides:

“The ISP has determined the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under federal or state law. The ISP will act before the harassing conduct becomes so pervasive and offensive as to constitute unlawful harassment.”

PER-032, “Discrimination and Harassment,” Paragraph IV.B.1., provides:

“Supervisors and managers: ...[w]ill set the standard for acceptable behavior in the workplace. They will ensure their actions are not reasonably offensive based on an impermissible factor regardless of whether an allegation or complaint is received regarding such conduct, and will refuse to tolerate any form of harassing conduct, discrimination, harassment, or retaliation.”

PER-033, “Sexual Harassment,” Paragraph I.A., provides:

“The Illinois State Police (ISP) prohibits sexual harassment; such acts are unlawful and will serve as the basis for disciplinary action up to and including termination.”

PER-033, “Sexual Harassment,” Paragraph I.B., provides:

“The ISP has determined the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under federal or state law. The ISP will act before the harassing conduct becomes so pervasive and offensive as to constitute unlawful sexual harassment.”

PER-033, “Sexual Harassment,” Paragraph IV.B.1., provides:

“Supervisors and managers...[w]ill set the standard for acceptable behavior in the workplace and will refuse to tolerate any form of harassing conduct or sexual harassment.”

PER-033, “Sexual Harassment,” Paragraph IV.B.2., provides:

“Supervisors and managers: ...will ensure their actions are not reasonably offensive on the basis of sex, which includes the characteristics of gender, marital or parental

status, pregnancy, or family responsibilities, and includes indicating a casual, dating, romantic or sexual interest towards another by way of conversation, body language or brief physical contact regardless of whether such conduct is one-sided, reciprocated, or encouraged.”

The Complaint alleges that Winslow violated these rules on April 19, 2017 when he sent Trooper Kromm a text message reading “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like.”

Findings

Text Messages

The Hearing Officer finds, as set forth in Section III (B) above and based on facts detailed in Section II above, that the facts do not support a finding of Winslow having harassed or sexually harassed Kromm by sending a text to her reading “get ur ass here or I’ll spank it.”

The Hearing Officer finds, as set forth in detail in Section III (B) above and detailed in Section II above, that by engaging or bantering with Kromm, despite Kromm’s initiation and involvement, Winslow, a supervisor and leader, failed to set a standard for acceptable behavior in the workplace.

Contact with Kromm’s Breast

The Hearing Officer finds, as set forth in Section III (C) above and detailed in Section II above, that the facts support a finding, by a preponderance of the evidence, that Winslow’s contact with Kromm’s breast was severe (though not pervasive), such that it had the effect (though not purpose), of unreasonable interfering with Kromm’s work performance as it created an offensive work environment (PER-032, III.S.1.b.1) (PER-033, III.E.1.b.1). The Hearing Officer finds that Winslow, an ISP leader/supervisor, failed to set standards for acceptable behavior in the workplace. (PER-033, IV.B.1).

Beer Bottle Issue

The Hearing Officer finds, as set forth in Section III (D) above and detailed in Section II above, that the facts do not support Kromm having seen or heard anything harassing or sexually harassing with respect to a beer bottle of hers at Pitch. The Hearing Officer does not find by a preponderance of the evidence that Winslow violated PER-032 or PER-033 relating to his treatment of a beer bottle of Kromm's or allegations he made comments regarding Kromm tasting like bitch.

Count III

Count III of the Complaint alleges a violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.47.g which states:

“Officers will not...consume alcoholic beverages, while off-duty, to the extent that it results in impairment, intoxication, or obnoxious or offensive behavior that discredits them or the Department, or renders the officers unfit to report for their next regular tour of duty.”

The Complaint alleges that Winslow violated this rule on April 19, 2017 when he consumed alcoholic beverages while off-duty to the extent that it resulted in obnoxious or offensive behavior that discredited himself and the Department, when on or about April 19, 2017, Winslow sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue, and/or a beer bottle and said something to the effect of “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at The Pitch bar.

Findings

Text Messages

As set forth in Section III (B) above and based on facts detailed in Section II above, the Hearing Officer finds that the text message exchange between Kromm and Winslow, though

certainly involving alcohol consumption by both, was not “obnoxious or offensive behavior discrediting Winslow and the Department.”

Contact with Kromm’s Breast

As set forth in Section III (B) above and based on facts detailed in Section II above, the Hearing Officer finds that Winslow consumed alcohol while off duty to the extent it resulted in obnoxious behavior that discredited Winslow (the Hearing Officer not making a conclusion that Winslow’s behavior discredited the Department) when Winslow made contact with Kromm’s breast.

Beer Bottle Issue

As set forth in Section III (C) above and based on facts detailed in Section II above, the Hearing Officer cannot find by a preponderance of the evidence that Winslow made a crude gesture with his hand, tongue or beer bottle and said something to the effect of “that’s what bitch tastes like” and thus cannot conclude the alleged conduct was brought on by the consumption of alcohol.

Count IV

Count IV of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.38 which states that:

“Officers will utilize Department equipment only for its intended purpose, in accordance with established Department procedures and will not abuse or damage Department equipment. Officers will use reasonable care to avoid loss of Department equipment. All Department equipment issued to officers will be maintained in proper order.”

The Complaint alleges that Winslow violated this rule on April 19, 2017 when Winslow did not utilize Department equipment for its intended purpose, when he used his cellular phone provided by Quad City MEG for departmental use, to send a text message to Trooper Kromm reading, “get ur ass here or I’ll spank it.”

Findings

As set forth in Section III (D) above and based on facts detailed in Section II above, the Hearing Officer does not find that Winslow used Department equipment in exchanging texts with Kromm.

Count V

Count V of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.7, Rules of Conduct, which states:

“Officers will conduct themselves on and off duty in such a manner as to reflect favorably on the Department. Officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department. Such actions will constitute conduct unbecoming an officer.”

The Complaint alleges that Winslow engaged in conduct that discredited the integrity of the Department and its employees and impaired the operations of the Department, when on or about April 19, 2017, he sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at The Pitch bar.

Findings

Text Messages

Consistent with Section III (B) above and based on facts detailed in Section II above, the Hearing Officer finds the facts do not support a conclusion that Winslow’s exchange of text messages with Kromm discredited the integrity of the Department or its employees or impaired the operations of the Department.

Though the text message exchange between Kromm and Winslow did not reflect well on either one of them the Hearing Officer cannot find by a preponderance of the evidence that the

exchange, considering all facts, caused the Department or its functions to be looked on with disfavor.

Contact with Kromm's Breast

Consistent with Section III (C) above and based on facts detailed in Section II above, the Hearing Officer finds the facts support a conclusion that Winslow's contact with Kromm's breast was inconsistent with Winslow reflecting favorably on the Department. The Hearing Officer does not find by a preponderance of the evidence that Winslow's actions discredited the integrity of the Department or its employees or impaired the operations of the Department.

Beer Bottle Issue

Consistent with Section III (D) above and based on facts detailed in Section II above, the Hearing Officer cannot find by a preponderance of the evidence that Winslow made a crude gesture with his hand, tongue or beer bottle or said something to the effect of "that's what bitch tastes like." Thus, the Hearing Officer cannot find the alleged behavior was violative of Rules of Conduct, III.A.7.

Count VI

Count VI of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.B.2, Rules of Conduct, which states that:

"Supervisors are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and example to ensure the efficiency of Department operations."

The Complaint alleges that Winslow violated this rule in that Winslow failed to provide leadership, supervision, and example, to ensure the efficiency of Department operations when on or about April 19, 2017, he sent Trooper Kromm a text message reading, "get ur ass here or I'll spank it," and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue,

and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at The Pitch bar.”

Findings

Text Messages

Though Count VI of the Complaint sets forth Rules of Conduct, III.B.2, it does not allege that the text messaging resulted in Winslow not maintaining discipline. Based on Section III(B) above and based on facts detailed in Section II above, the Hearing Officer finds that an analysis of those facts does not support a finding that the text message exchanges between Kromm and Winslow related to or jeopardized the efficiency of Department operations.

Contact with Kromm’s Breast

Count VI of the Complaint does not allege that the contact with Kromm’s breast resulted in discipline not being maintained. Based on Section III(C) above and facts detailed in Section II above, the Hearing Officer finds that an analysis of the facts does not support a finding that Winslow’s contact with Kromm’s breast at Pitch related to or jeopardized the efficiency of Department operations.

Beer Bottle Issue

Based on Section III (D) above and based on facts detailed in Section II above, the Hearing Officer cannot find by a preponderance of the evidence that Winslow made crude gestures with his hand, tongue and/or beer bottle or said something to the effect of “so that’s what bitch tastes like.” Thus, the Hearing Officer cannot find the alleged behavior was violative of Rules of Conduct, III.B.2

V. CONCLUSIONS OF LAW

1. The Illinois State Police Merit Board has jurisdiction over the parties hereto and the subject matter of this case.

2. This matter is decided exclusively on the evidence admitted at the hearing held in this case.

3. The burden of proof in this case rests upon the Department. The Department is required to prove the allegations of this Complaint by a preponderance of the evidence (80 Ill. Adm. Code Ch. IV Secs. 150.665(f), 150.680(a)). By requiring proof of a matter by preponderance of the evidence, the Department is required to prove that the matters asserted are more probably true than not true (Illinois Pattern Jury Instructions, Civil, 21.01).

4. With respect to Count I of the Complaint, the Hearing Officer concludes that the Department has not proven that Winslow violated state law by committing the offense of battery pursuant to 720 ILCS 5/12-3.

5. With respect to Count II of the Complaint, the Hearing Officer concludes that the Department has not proved that Winslow violated Rules of Conduct, Paragraph III.A.64 by engaging in harassing conduct in violation of ISP Directive PER-032, "Discrimination and Harassment," by engaging in text messaging with Kromm that included him sending a message reading "get ur ass here or I'll spank it."

6. With respect to Count II of the Complaint, the Hearing Officer concludes that the Department has not proven that Winslow violated Rules of Conduct, Paragraph III.A.64 by engaging in sexually harassing conduct in violation of ISP Directive PER-033, "Sexual Harassment," by engaging in text messaging with Kromm that included him sending a message reading "get ur ass here of I'll spank it."

7. With respect to Count II of the Complaint, the Hearing Officer concludes the Department has proven that Winslow violated the Rules of Conduct, Paragraph III.A.64 by engaging in harassing conduct in violation of ISP Directive PER-032, "Discrimination and Harassment," by having contact with Kromm's breast that was severe enough, (though not pervasive), that it had the effect (though not purpose of) unreasonably interfering with Kromm's work performance as it created an offensive work environment (PER-032, III.S.1.b.1). The Hearing Officer further finds that Winslow's contact with Kromm's breast was conduct that could reasonably cause Kromm to feel offended, humiliated, intimidated, insulted or ridiculed (PER-032, III.R). The Hearing Officer does not conclude that Winslow violated PER-032 to any other extent.

8. With respect to Count II of the Complaint, the Hearing Officer concludes the Department has proven by a preponderance of the evidence Winslow violated the Rules of Conduct, III.A.64 and ISP Directive PER-033, "Sexual Harassment," with respect to Winslow's contact with Kromm's breast as Winslow's contact with Kromm's breast was severe enough (though not pervasive) that it had the effect (though not purpose of) creating an intimidating, hostile, abusive or offensive working environment (III.E.1.b.1). The Hearing Officer finds that Winslow, an ISP leading/supervisor, failed to set standards for acceptable behavior in the workplace (PER-033, IV.B.1). The Hearing Officer does not find that Winslow violated PER-033 to any other extent.

9. With respect to Count II of the Complaint, the Hearing Officer concludes that the Department has not proven by a preponderance of the evidence that Winslow made crude gestures with his hand, tongue and/or a beer bottle and said something to the effect of "so that's what bitch tastes like." Therefore, the Hearing Officer concludes Winslow did not violate Rules of Conduct,

III.A.64, PER-032, "Discrimination and Harassment," or PER-033, "Sexual Harassment," with respect to said allegations.

10. With respect to Count III of the Complaint, the Hearing Officer finds that the Department has not proven by a preponderance of the evidence that the text message exchanges between Winslow and Kromm violated Rules of Conduct, Paragraph III.A.47(g).

11. With respect to Count III of the Complaint, the Hearing Officer finds the Department has proven that Winslow consumed alcohol while off duty to the extent it resulted in obnoxious behavior that discredited Winslow (no finding being made by the Hearing Officer that Winslow discredited the Department) and, to that extent, Winslow violated Rules of Conduct, Paragraph III.A.47(g). The Hearing Officer does not find the Department proved a violation of Paragraph III.A.47(g) beyond that specifically set forth above.

12. With respect to Count III of the Complaint, the Hearing Officer finds that the Department did not prove Winslow made crude gestures with his hand, tongue and/or a beer bottle and said something to the effect of "so that's what bitch tastes like" at Pitch. Therefore, the Hearing Officer finds Winslow did not violate Rules of Conduct, III.A.47(g) with respect to that allegation.

13. With respect to Count IV of the Complaint, the Hearing Officer finds that the Department did not prove by a preponderance of the evidence that Winslow utilized Department equipment to engage in the exchange of text messages with Kromm.

14. With respect to Count V of the Complaint, the Hearing Officer does not find that the Department proved by a preponderance of the evidence that Winslow violated Rules of Conduct, Paragraph III.A.7 with respect to his text message exchanges with Kromm.

15. With respect to Count V of the Complaint, the Hearing Officer finds by a preponderance of the evidence that Winslow violated Rules of Conduct, Paragraph III.A.7 by making contact with Kromm's breast at Pitch. The Hearing Officer does not find a violation of the rule beyond that specifically set forth above.

16. With respect to Count V of the Complaint, the Hearing Officer finds the Department did not prove by a preponderance of the evidence that Winslow made crude gestures with his hand, tongue and/or beer bottle and said something to the effect of "so that's what bitch tastes like" at Pitch. Therefore, the alleged conduct did not violate the rule at issue.

17. With respect to Count VI of the Complaint, the Hearing Officer finds that the Department did not allege Winslow failed to maintain discipline by any of the acts alleged in Count VI. The Hearing Officer does not find by a preponderance of the evidence that Winslow violated Rules of Conduct, Paragraph III.B.2 by any of the acts alleged in Count VI.

VI. PENALTY CONSIDERATION

The Department seeks a suspension of Winslow's employment with the Illinois State Police for a period of time in excess of thirty (30) days.

The imposition of any appropriate penalty in this case is within the exclusive discretion of the Illinois State Police Merit Board. No recommendation, therefore, is made by the Hearing Officer with respect to an appropriate penalty to be imposed on Winslow in the event the Board finds a violation or violations of the Rules of Conduct.

Respectfully submitted in Springfield, Illinois
on Monday, October 15, 2018.



Peggy J. Ryan, Hearing Officer
Illinois State Police Merit Board

PROOF OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served by e-mailing and by placing in a sealed envelope addressed to:

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Ms. Jessica Durkin
Ms. Yasemine Givan
General Law Division
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and by placing same in the United States mail, postage fully prepaid, on the 15th day of October, 2018.

A handwritten signature in cursive script, appearing to read "Peggy Ryan", is written over a horizontal line.

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STATE OF ILLINOIS
ILLINOIS STATE POLICE MERIT BOARD

RECEIVED

OCT 26 2017

ILLINOIS STATE POLICE
MERIT BOARD

IN THE MATTER OF:

LIEUTENANT KEVIN WINSLOW
I.D. No. 5127


)
)
) Illinois State Police
) Merit Board No.
)
)

COMPLAINT

NOW COMES Leo Schmitz, Director of the Illinois State Police, and pursuant to 20 ILCS 2610/14 and 80 Ill. Admin. Code § 150.575 states as follows:

1. Kevin Winslow ("Respondent") is employed as a State Police Officer by the Illinois State Police ("ISP" or "Department") and holds the rank of Lieutenant. In April 2017, Respondent was assigned to Zone 2. His supervisory duties as a Lieutenant in Zone 2 included oversight of several narcotics enforcement groups, including the Quad City Metropolitan Enforcement Group ("Quad City MEG"). Respondent has been employed by the Department since October 10, 1999.
2. On November 29, 2012, Respondent completed the Department's EEO Matters: Sexual Harassment training. On January 3, 2017, Respondent completed the Department's 2016 Equal Employment Opportunity Supervisory Employee Training. As a Lieutenant for the Department, Respondent was aware or should have been aware that ISP policy prohibits sex discrimination, sexual harassment, and harassing conduct, as explained in detail below in Count II of this Complaint.
3. Respondent attended the 2017 Illinois Drug Enforcement Officers Association (IDEOA) Conference in East Peoria, Illinois, which was held April 19-21, 2017.

4. The IDEOA is an association composed of sworn law enforcement officers whose primary responsibility is the enforcement of narcotics laws in the State of Illinois. The IDEOA is governed by a Board consisting of supervisors from the Illinois State Police, Chicago Police Department, Lake County Metropolitan Enforcement Group, DuPage County Metropolitan Enforcement Group, Joliet Metropolitan Area Narcotics Squad, Cook County Sheriff's Police, and the United States Drug Enforcement Administration. In April 2017, Respondent served as the President of the IDEOA's Executive Board.
5. Respondent participated in the conference in his capacity both as an ISP Lieutenant and as IDEOA President. It was Respondent's job to run the three-day IDEOA conference.
6. On the afternoon of Wednesday, April 19, 2017, around the conclusion of the main speaker's presentation, Respondent encountered Trooper Samantha Kromm near the exit of the conference center.
7. Respondent had previously met Trooper Kromm working at a drug interdiction detail in 2014 or 2015. Respondent had no personal relationship with Trooper Kromm.
8. Respondent informed Trooper Kromm that there were already many officers drinking in Respondent's hotel suite. During the last few IDEOA conferences, Respondent permitted attendees to come to his hotel suite to socialize and have drinks, and Respondent provided snacks.
9. In the hotel suite, Respondent, Trooper Kromm, and a group of officers took a shot of liquor together. Respondent also consumed a rum and coke. Respondent then exited the room, where Trooper Kromm continued to socialize with the other officers.

10. Prior to the scheduled 5 p.m. conference social hour, Respondent took a half a tablet of Tramadol, an opioid used to treat moderate to severe pain, for his back injury and a dose of Wellbutrin.
11. Respondent then attended the scheduled social hour, during which he drank two or three beers.
12. Respondent and officers from several jurisdictions went to the Pitch karaoke bar in Peoria. At Pitch, Respondent consumed more than five but less than ten additional alcoholic beverages.
13. While at Pitch, Respondent exchanged text messages with Trooper Kromm using his work cellular phone. The phone was issued to him by Quad City MEG, a narcotics enforcement group comprised of officers from ISP and other jurisdictions, and over which Respondent has oversight duties as an ISP Lieutenant.
14. Respondent texted to Trooper Kromm, "Go to pitch and dump ur chaperone[.]"
15. At approximately 9:17 p.m., Respondent texted to Trooper Kromm from his work phone, "Get ur ass here Or I'll spank it[.]"
16. Trooper Kromm arrived at Pitch around 10:00 p.m.
17. Respondent approached Trooper Kromm's table, and they conversed for a few minutes.
18. In the presence of bar patrons, including police officers from ISP and other jurisdictions, Respondent made squeezing motions with his hand in front of Trooper Kromm's breasts.
19. Respondent then made physical contact and groped Trooper Kromm's breast without her consent.
20. Trooper Kromm appeared wide-eyed and shocked and felt humiliated and angry.

21. Respondent grabbed Trooper Kromm's nearby beer bottle and spit into it, making a gesture with his tongue. Witnesses described the gesture as either licking or sticking his tongue into the beer bottle.
22. Respondent then said something to the effect of "so that's what bitch tastes like[.]" and walked away.
23. Later that night, Respondent used his work phone to text to Trooper Kromm, "Wow even ur voicemail sounds ADD Ok. Cya later Whatever chicken shit Lol[.]"
24. On Thursday, April 20, 2017, around 11:02 a.m., Respondent used his work phone to text to Trooper Kromm: "Did you just text or call me. My phone is fucking up. It's pissing me off[.]"
25. Trooper Kromm texted back: "Nope Did u want me to[?]"
26. Respondent responded "No that's ok. Fucking phone is about ready to die or something. Doing weird shit."
27. On June 20, 2017, agents from the Department's Division of Internal Investigation (DII) conducted an administrative interview of Respondent in the presence of his attorney after giving Respondent notice of the allegations under investigation and his administrative rights. During his administrative interview, when asked whether he recalls grabbing Trooper Kromm's breast, among other statements, Respondent admitted his "intoxication level was obviously to the point to where I don't remember that. So I'm not denying that I did it. I just don't recall it, and I don't recall why I did it, if I did it." *See* Tr., p. 38.
28. Respondent does recall spitting into a beer bottle while at Trooper Kromm's table. *See* Tr., pp. 33-34.

COUNT I

VIOLATION OF STATE LAW – BATTERY

29. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
30. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.1., which states:
- “Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction.”
- (First Offense – Level 4 Misconduct).”
31. Respondent violated this rule by failing to obey state law when he committed the offense of Battery, in violation of 720 ILCS 5/12-3, a Class A misdemeanor, in that on or about April 19, 2017, he knowingly made physical contact of an insulting or provoking nature with Trooper Kromm by grabbing her breast without consent.

COUNT II

ENGAGING IN CONDUCT IN VIOLATION OF DISCRIMINATION AND HARASSMENT AND SEXUAL HARASSMENT POLICIES

32. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
33. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.64., which states:
- “Officers will not engage in conduct that is in violation of the policies and procedures established in directives PER-009, “Equal Employment Opportunity,”

PER-032, "Discrimination and Harassment," or PER-033, "Sexual Harassment."

(First Offense – Level 4 Misconduct).

34. PER-032, "Discrimination and Harassment," Paragraph I.A., provides:

"The Illinois State Police (ISP) prohibits discrimination in all forms, including but not limited to harassment, and retaliation; such acts are unlawful and will serve as the basis for disciplinary action up to and including termination."

35. PER-032, "Discrimination and Harassment," Paragraph I.B., provides:

"The ISP has determined the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under federal or state law. The ISP will act before the harassing conduct becomes so pervasive and offensive as to constitute unlawful harassment."

36. PER-032, "Discrimination and Harassment," Paragraph IV.B.1., provides:

"Supervisors and managers:...[w]ill set the standard for acceptable behavior in the workplace. They will ensure their actions are not reasonably offensive based on an impermissible factor regardless of whether an allegation or complaint is received regarding such conduct, and will refuse to tolerate any form of harassing conduct, discrimination, harassment, or retaliation."

37. PER-033, "Sexual Harassment," Paragraph I.A., provides:

"The Illinois State Police (ISP) prohibits sexual harassment; such acts are unlawful and will serve as the basis for disciplinary action up to and including termination."

38. PER-033, "Sexual Harassment," Paragraph I.B., provides:

"The ISP has determined the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under federal or state law. The ISP will act before the harassing conduct becomes so pervasive and offensive as to constitute unlawful sexual harassment."

39. PER-033, "Sexual Harassment," Paragraph IV.B.1., provides:

"Supervisors and managers: ...[w]ill set the standard for acceptable behavior in the workplace and will refuse to tolerate any form of harassing conduct or sexual harassment."

40. PER-033, "Sexual Harassment," Paragraph IV.B.2., provides:

"Supervisors and managers: ...will ensure their actions are not reasonably offensive on the basis of sex, which includes the characteristics of gender, marital or parental status, pregnancy, or family responsibilities, and includes indicating a casual, dating, romantic or sexual interest towards another by way of conversation, body language or brief physical contact regardless of whether such conduct is one-sided, reciprocated, or encouraged."

41. Respondent violated ROC-002, Rules of Conduct, Paragraph III.A.64., by engaging in harassing conduct in violation of ISP Directive PER-032, Discrimination and Harassment, and ISP Directive PER-033, Sexual Harassment, when on or about April 19, 2017, he sent Trooper Kromm a text message reading, "get ur ass here or I'll spank it," and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand,

tongue and/or a beer bottle and said something to the effect of, "so that's what bitch tastes like."

COUNT III

CONSUMING ALCOHOLIC BEVERAGES TO THE EXTENT THAT IT RESULTS IN IMPAIRMENT, INTOXICATION, OR OBNOXIOUS OR OFFENSIVE BEHAVIOR

42. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
43. All or a portion of the facts set forth herein constitute Respondent's violation of Departmental Directive ROC-002, Rules of Conduct, Paragraph III.A.47.g, which states:
- "Officers will not...consume alcoholic beverages, while off-duty, to the extent that it results in impairment, intoxication, or obnoxious or offensive behavior that discredits them or the Department, or renders the officers unfit to report for their next regular tour of duty."
- (First Offense – Level 3 Misconduct).
44. Respondent violated this rule when he consumed alcoholic beverages while off-duty to the extent that it resulted in obnoxious or offensive behavior that discredited himself and the Department, when on or about April 19, 2017, Lieutenant Winslow sent Trooper Kromm a text message reading, "get ur ass here or I'll spank it," and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue, and/or a beer bottle and said something to the effect of "so that's what bitch tastes like," in the presence of other officers and bar patrons at The Pitch bar.

COUNT IV

MISUSE OF DEPARTMENT EQUIPMENT

45. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
46. All or a portion of the facts set forth herein constitute Respondent's violation of Departmental Directive ROC-002, Rules of Conduct, Paragraph III.A.38., which states:

"Officers will utilize Department equipment only for its intended purpose, in accordance with established Department procedures and will not abuse or damage Department equipment. Officers will use reasonable care to avoid loss of Department equipment. All Department equipment issued to officers will be maintained in proper order."

(First Offense – Level 1 Misconduct).

47. Respondent violated this rule in that he did not utilize Department equipment for its intended purpose, when he used his cellular phone provided by Quad City MEG for departmental use, to send a text message to Trooper Kromm reading, "get ur ass here or I'll spank it."

COUNT V

CONDUCT UNBECOMING AN OFFICER

48. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
49. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.7., which states:

“Officers will conduct themselves on and off duty in such a manner as to reflect favorably on the Department. Officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department. Such actions will constitute conduct unbecoming an officer.”

(First Offense – Level 1 Misconduct).

50. Lieutenant Winslow engaged in conduct that discredited the integrity of the Department and its employees and impaired the operations of the Department, when on or about April 19, 2017, he sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at the Pitch bar.

COUNT VI

VIOLATION OF RULES AND REGULATIONS FOR SUPERVISORY PERSONNEL

51. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
52. All or a portion of the facts set forth herein constitute Respondent’s violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.B.2., which states:
- “Supervisors are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and example to ensure the efficiency of Department operations.”
53. Lieutenant Winslow failed to provide leadership, supervision, and example, to ensure the efficiency of Department operations when on or about April 19, 2017, he sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed

the breast of Trooper Kromm, made crude gestures with his hand, tongue, and/or a beer bottle and said something to the effect of, "so that's what bitch tastes like," in the presence of other officers and bar patrons at The Pitch bar.


CERTIFICATION

Copies of Illinois State Police Department Directives ROC-002, Rules of Conduct (Ex. A), PER-032, Discrimination and Harassment (Ex. B), and PER-033, Sexual Harassment (Ex. C), are attached and are certified by the Director as accurate, complete, and in full force and effect at the time the aforementioned acts were committed.

CONCLUSION

WHEREFORE, by reason of these facts and charges, I request the Illinois State Police Merit Board conduct a hearing in this matter and suspend Respondent from employment with the Illinois State Police for a period in excess of thirty (30) days as the Merit Board, in the exercise of its discretion, deems warranted.

Respectfully submitted,


Leo Schmitz, Director

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